

SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR; TRIBUTES TO
AMERICA'S VETERANS; SITES HONORING PRESIDENTS; LANDS IN
EVERGLADES NATIONAL PARK; EL CAMINO REAL DE LOS TEJAS;
AND HYDROELECTRIC POWER OF THE TAPOCO PROJECT

HEARING
BEFORE THE
SUBCOMMITTEE ON NATIONAL PARKS
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED EIGHTH CONGRESS
SECOND SESSION

ON

S. 1064	S. 2046
S. 1092	S. 2052
S. 1748	S. 2319

APRIL 27, 2004



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CIVIL WAR; TRIBUTES TO AMERICA'S
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LANDS IN EVERGLADES NATIONAL PARK;
EL CAMINO REAL DE LOS TEJAS; AND
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PROJECT**

TUESDAY, APRIL 27, 2004

U.S. SENATE,
SUBCOMMITTEE ON NATIONAL PARKS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:33 p.m., in room SD-366, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

**OPENING STATEMENT OF HON. CRAIG THOMAS,
U.S. SENATOR FROM WYOMING**

Senator THOMAS. We will go ahead and get the committee going. Thank you all for being here.

Senator Breaux, I hope this will not be quite as long as our 2½ hour meeting this morning. But in any event, I do want to welcome you.

I welcome the representatives from the Park Service and the Federal Energy Regulatory Commission and other witnesses to the National Parks Subcommittee.

We have six bills that we are talking about today: S. 1064, a bill to establish a commission to commemorate the sesquicentennial of the American Civil War; S. 1092, a bill to authorize the establishment of a national data base for the purpose of identifying, locating, and cataloguing the many memorials and permanent tributes to American veterans; S. 1748, a bill to establish a program to award grants to improve and maintain sites honoring the Presidents of the United States; S. 2046, a bill to authorize the exchange of certain lands in Everglades Park; S. 2052, a bill to amend the Trails System Act to designate the El Camino Real Trail as a National Historic Trail; and S. 2319, a bill to authorize and facilitate the hydroelectric power licensing of the Tapoco Project. And I guess that is it.

So welcome to all of you. Senator, we are glad to have you, sir.

**STATEMENT OF HON. JOHN B. BREAU, U.S. SENATOR
FROM LOUISIANA**

Senator BREAU. Thank you very much, Mr. Chairman and Senator Akaka and Senator Campbell, for being here this afternoon.

Arguably there is no more important event in the history of the United States than the consequences and the conduct of the Civil War almost 150 years ago. I introduced legislation back in 1995 that was a joint resolution that basically named the United States Civil War Center at Louisiana State University and the Civil War Institute at Gettysburg College as the flagship institutions in the United States for planning of the sesquicentennial celebration and commemoration of the Civil War. And since that time, Members of Congress from Virginia have included Pamplin Historical Park and the Virginia Center for Civil War Studies at Virginia Tech also to be included in these institutions that are the flagship institutions with regard to studying the Civil War.

Now let us fast forward to where we are today. I introduced the bill, S. 1064, in May of last year, and this bill establishes a commission to commemorate the 150th anniversary of the Civil War. There are a number of cosponsors of that legislation. It is bipartisan. Senator Landrieu, Senator Specter, Senator Santorum, Senator Warner, and Senator Allen all are co-sponsors of this legislation.

Basically the point of creating a commission is to ensure that there is a suitable national observance and it encourages really a true interdisciplinary examination of the Civil War. The commission would have the role to ensure that what we do is done properly.

It is an authorization of \$500,000, which in today's world is not a lot of money at all, but it is important to have this commission to supervise how we commemorate the 150th year anniversary of the Civil War.

It is more than just studying the battles. It is more than just counting how many men and women fought and how many men and women were killed and died. It is really looking at the Civil War in the totality of what occurred, why it happened, what caused it to happen, in addition, what were the social consequences of that great event in our Nation's history. What did we learn from it? All of these things are incredibly important if we are going to study and commemorate the 150-year anniversary of that important event.

You are going to be hearing from Ms. Faye Phillips who is associate dean of libraries at Louisiana State University. Because the United States Civil War Center is a special collection within the libraries there, all of these people report to her. She has provided research for over 30 years to Civil War scholars and students and the general public. She is truly an expert in this area, and I think she will be very beneficial to the committee.

She has also been the archivist for many of our colleagues—Senator Russell Long, Senator Mack Mathias, Senator Eagleton, Senator Gary Hart—and will be doing the same thing for me as we try to figure out what to do with all of the material that we collect over our congressional careers. But I think her statements are of great value.

I just wanted to come by and make a couple of comments about her to the committee and hope that we could push this legislation and bring it to the full Senate. Thank you.

[The prepared statement of Senator Breaux follows:]

PREPARED STATEMENT OF HON. JOHN B. BREAU, U.S. SENATOR
FROM LOUISIANA

In just a few years, our nation will celebrate the sesquicentennial of the American Civil War. This 150th anniversary formally begins on April 11, 2011, a day that will forever mark one of the greatest tests of our unity as a people. The Civil War was a defining experience in the development of the United States. While we cannot help but acknowledge our struggle with issues arising from the Civil War and the subsequent Reconstruction, we can learn from our shared heritage.

As we approach the sesquicentennial of the Civil War, we have a unique opportunity to recall the Civil War, and its legacy in a spirit of reconciliation and reflection. The years 2011-2015 will mark the 150th anniversary of the Civil War, a war in which more Americans lost their lives than in any other conflict in American history. Claiming almost 700,000 Americans, the Civil War tore our nation apart along an ideological seam. Fathers and sons, brothers and relatives met in combat on the fields of the American frontier to fight for the most basic of all human rights—freedom.

In 1996, Congress designated the United States Civil War Center at Louisiana State University and the Civil War Institute at Gettysburg College as co-facilitators of the sesquicentennial commemoration of the Civil War. In addition, in 2002 the Pamplin Historical Park and the Virginia Center for Civil War Studies joined in these efforts to plan the commemoration. These four institutions will be at the forefront of a series of programs and activities related to the observance of the sesquicentennial of the Civil War.

As part of the Commission, these institutions will receive funds to promote the lessons of the war from the perspective of all professions, occupations, and academic disciplines. The institutions will also create grant programs to conduct commemorative activities, establish a National Student Essay Award and publish information packets and calendars.

At the conclusion of the Civil War, President Abraham Lincoln said, “Let us therefore study the incidents of this, as philosophy to learn wisdom from.” The upcoming anniversary, and this legislation, can help to realize President Lincoln’s vision.

Senator THOMAS. Thank you very much, Senator. We appreciate your taking time to be with us.

Senator Akaka, any opening statement?

STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR
FROM HAWAII

Senator AKAKA. Thank you very much, Mr. Chairman. I thank you for holding this hearing.

Two of the bills on today’s agenda involve land exchanges at national parks, one at Everglades, and the other at Great Smoky Mountains National Park. While I generally prefer not to remove land from national park status—even if exchanged for other land—I believe that these two bills merit our support.

It has been almost 15 years since this committee approved Senator Graham’s bill to expand the park’s boundary to include 110,000 acres in the East Everglades in an effort to restore the natural water flow patterns into the park. Subsequently, Congress approved a multi-billion Everglades restoration program in the Water Resources Development Act of 2000. Because the proposed exchange will allow for the completion of one of these significant restoration projects, this exchange will benefit the park.

Likewise, it seems to me that the proposed exchange at Great Smoky Mountains National Park is one that will also benefit the

park. In this case, a hydroelectric project has inundated a few tributaries that are inside the park boundary for over 50 years. Without this bill, the Federal Energy Regulatory Commission will be precluded from relicensing the project. There is no way to lower the water level without completely eliminating the reservoir. The proposed exchange will provide for a new increase of park acreage and protect significant wildlife habitat, while ensuring that an important source of electricity and recreation is not disrupted.

I would like to commend Senator Graham and Senator Alexander for their work on these bills.

Mr. Chairman, I would like to welcome the witnesses to the subcommittee. I look forward to hearing their testimony and learning more about all of these bills. Thank you very much.

Senator THOMAS. Thank you, sir.

Senator Hutchison, welcome. Glad to have you here. Just go right ahead please.

STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Senator HUTCHISON. Well, thank you, Mr. Chairman. I do have with me today—and I think he is going to also make a statement—the chairman of our Texas Historical Commission, who will also speak in favor of S. 2052, the El Camino Real de los Tejas National Historic Trail Act.

Mr. Chairman, I have been working with the people in my State for probably 3 years now to try to make sure that if we do establish this trail, that we do so in a way that provides protection for our private property owners and gives the State Historical Commission also a chance to participate. And that is exactly what the bill does. I am pleased because I think this is the way that we should pursue historic trails.

This will preserve a storied piece of Texas ancestry for generations to come. The El Camino Real was a corridor of trails used by settlers, immigrants, Indians, and the military. It served as a path for Texas heroes such as Davy Crockett and Sam Houston who fought in the struggle for Texas independence.

The 300-year-old corridor provided a critical trade route, a post road, a cattle trail, and military highway. It opened the Americas to Texas and Texas to the world. It extends 2,600 miles from the Rio Grande River near Eagle Pass and Laredo through San Antonio, Bastrop, and Nacogdoches to Natchitoches, Louisiana. 2500 miles of the trails wind across 40 Texas counties, and the last 80 miles are in Louisiana.

The El Camino Real served as a strategic corridor during the Texas struggle for independence from Mexico. Supplies made their way along the trail for the Republic of Texas army as it forged ahead to victory.

The opt in/opt out provision protects private property owners along the trail. I think it is critical that we respect private property rights while we also preserve historic significance on major trails such as the El Camino Real. This bill will allow our State agencies, such as the Texas Historical Commission, to participate in the establishment and designation of the trail.

My bill allows the people of Texas and visitors to understand how the trail helped to shape the development of Texas. It is not just a highway with a historical significance, it is a road that has been the foundation of an inspirational past.

I am proud to offer this legislation and I hope very much, after you hear from my friend, John Nau, the chairman of our Texas Historical Commission, that you will give us a markup as soon as possible because I believe if we can pass this bill and get it over to the House, it will be a Senate bill and it will be, I think, a model bill for future historic trail designations.

Thank you, Mr. Chairman.

Senator THOMAS. If we have questions, we can talk with Mr. Nau later. Is that right?

Senator HUTCHISON. Yes. I am happy to take a question.

Senator THOMAS. But he is going to talk on that subject.

Senator HUTCHISON. He will give it from the State perspective, absolutely.

Senator THOMAS. Super.

Senator HUTCHISON. I want to acknowledge also my friend, the Senator from Louisiana, who has been pushing this trail for a long time, and I think that we have now gotten to the point where it really will be a model bill and one that will preserve traditions of Louisiana, as well as Texas.

Senator THOMAS. You sort of share this. You have 250 miles and she has 8.

Senator HUTCHISON. That is right.

Senator LANDRIEU. But we have a very important 8.

[Laughter.]

Senator HUTCHISON. Eighty. You have 80.

Senator LANDRIEU. It is a very important 80. I cosponsor the legislation and I also want to add my support for it, Mr. Chairman.

Senator THOMAS. Great.

Senator.

Senator CAMPBELL. Well, thank you. I have a statement on S. 1092 I would like to give, but before Senator Hutchison leaves—I do not know if I will be here when Mr. Nau testifies or not.

I grew up in California, and of course, there is an El Camino Real in California started by Father Junipero Serra, I think in the 1700's. It went from Mexico City all the way up through clear to San Francisco, and there are about 10 missions in fact along the California coast that are all along the old El Camino Real. I did not even know until today there was another El Camino Real, the one you are talking about, the King's Highway.

But I was wondering, when I was reading the bill, if there would be some confusion between the two if we have two nationally designated places that are El Camino Reals.

Senator HUTCHISON. Frankly, I did not know that there was a California one. This one is very well established in Texas and that is the name of it.

Senator CAMPBELL. Well, I support it.

Senator HUTCHISON. This is de los Tejas. It is El Camino Real de los Tejas, so it is a Texas designation. Maybe that would make the difference.

Senator CAMPBELL. I guess so. Everybody will have to speak Spanish to understand it. OK. I support the bill. I just wondered if there would be some confusion or not.

Senator HUTCHISON. Maybe the de los Tejas was added because of that by the people who put it together.

Senator CAMPBELL. Perhaps so. Thank you.

Senator HUTCHISON. But there is nothing else that we could possibly name it. It is such an important part of our history. And it did connect actually Nacogdoches, where my mother grew up, and Natchitoches, Louisiana where so many people came from in the early days of the Texas independence. They were sister cities.

Senator CAMPBELL. Is that near Senator Landrieu's home town?

Senator LANDRIEU. Not my home town, but it is a very special area because it is the Cane River heritage. If you all saw Steel Magnolias, it is where it was filmed, so you have some visual of that. But it is a magnificently historical area. In fact, it may be the oldest settlement in the Louisiana Purchase, even older than—am I right, historians? Thank you. It is older than New Orleans. I think it was the capital of Texas, Kay, at one point.

Senator HUTCHISON. Well, Nacogdoches is the oldest town in Texas.

Senator CAMPBELL. Well, Mr. Chairman, with Senator Hutchison supporting it and Senator Landrieu on the other end of the trail, I guess it is going to pass.

Senator LANDRIEU. Well, I do not know if we want to switch our capital cities, but we were happy to host the capital of Texas, at least for a short time.

Senator HUTCHISON. The legend is that there were two Indian brothers, Natchitoches and Nacogdoches. That is legend, obviously. But Nacogdoches is designated as the oldest city in Texas and it was the home of Sam Houston and Thomas Rusk whose seat I hold in the Senate.

Senator CAMPBELL. The chairman says he knew that, but I did not know that.

[Laughter.]

Senator HUTCHISON. Thank you.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO

Senator CAMPBELL. Thank you. Mr. Chairman, may I speak just for a moment on S. 1092, my bill?

It would authorize the establishment of a national data base to locate and catalogue the many memorials and permanent tributes to American veterans. There are thousands of public memorials and tributes to veterans in communities throughout the country, Mr. Chairman, but they have never been comprehensively catalogued. Right now an individual can go on line and access a network of all the railway main lines, railroad yards major sitings, or if you want to search all the scenic byways, you can easily access a data base for the National Park System or the Federal Highway Administration. So there are many things now that are catalogued to remind us of those historic important places, but it seems to me that we need some kind of a national comprehensive cataloguing of veterans memorials too. Certainly they are at least as important as

the lighthouses and railroad sitings, so many things that we already do catalogue. But there is no central information of structures commemorating an individual or group in the armed forces available to the public.

Under the legislation that I have introduced and we are considering, this data base would be established by the Department of the Interior with the assistance of other agencies, non-profits, tribal governments, and any other entities that the Secretary of the Interior would deem appropriate. Since the Department of the Interior already maintains several data bases, I do not think it would be difficult to expand that because they already have a proven capability to maintain a catalogue of different data bases.

The Secretary would also have to report back to Congress 3 years after enactment to assess the feasibility of establishing a permanent fund to repair, maintain, and restore the memorials that need help.

Several years ago, Congress passed a law which expressed the need for cataloguing and maintaining these public veterans memorials when similar legislation was reported favorably out of the House Committee on Resources last Congress. The CBO estimated it would not have a significant impact on the budget of State, local, or tribal governments and would not preempt their laws. A first step in making sure that the sites and structures honoring the veterans are properly maintained is also making sure that we know where each of them are.

As a veteran myself, I think this is a very important bill, a bill that is going to be rather low cost to get it off the ground, and I look forward to hearing the testimony on it and hope for its passage.

Thank you, Mr. Chairman.

Senator THOMAS. Thank you, Senator. I hope you can stay around as long as you can.

Senator Landrieu.

STATEMENT OF HON. MARY L. LANDRIEU, U.S. SENATOR FROM LOUISIANA

Senator LANDRIEU. Thank you, Mr. Chairman. Unfortunately, I have another meeting. I am going to have to slip out.

But I just wanted to recognize the distinguished guest here from Louisiana State University in particular, Mrs. Faye Phillips, the associate dean of the libraries for special collections. She has had a long and wonderful relationship with the Senate and with Senator Russell Long and now will be helping Senator John Breaux with his archives and is particularly suited to help us lead this effort by at least representing our university, along with another partner we have, the Gettysburg College in Pennsylvania, as the official institutes responsible for facilitating and planning the 150th anniversary or commemoration of the Civil War, which will take place in a few years. So I just wanted to be here to welcome you, Faye, and to support the bill that Senator Breaux has brought before our committee.

Thank you, Mr. Chairman.

Senator THOMAS. Thank you very much for coming.

Why do we not go ahead now with our first panel: Deputy Assistant Secretary, Fish, Wildlife and Parks, Paul Hoffman, the Department of the Interior; Mr. Mark Robinson, Director, Office of Energy Projects, Federal Energy Regulatory Commission. Gentlemen, welcome. Glad to have you here.

Mr. Secretary, it is very nice to have you. I am always a little prejudice toward a Wyoming background, as you know.

STATEMENT OF PAUL HOFFMAN, DEPUTY ASSISTANT SECRETARY, FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR

Mr. HOFFMAN. Thank you, Mr. Chairman. I always appreciate that prejudice for Wyoming. Thank you, members of the committee.

My name is Paul Hoffman. I am the Deputy Assistant Secretary for Fish, Wildlife and Parks over at the Department of the Interior, and it is my privilege to be able to testify here today before you on these six bills before your committee.

If you have got your pens and pencils out, I will give you a brief scorecard summary, and then I would like to give some brief comments on each bill.

S. 1064, the Civil War sesquicentennial commission bill, we support with some amendments.

S. 1092, the national data base of memorials, monuments, and markers, we oppose.

S. 1748, National Park Service management of sites honoring past Presidents of the United States, we oppose.

S. 2046, the Everglades land exchange, we support with amendments.

S. 2052, El Camino Real de los Tejas trail designation, we support with technical amendments.

S. 2319, the Tapoco agreement and land exchange, we support with amendments.

We have submitted written testimony which I would like to have entered for the record.

Senator THOMAS. It will be in the record.

Mr. HOFFMAN. The first bill, S. 1064, is the American Civil War Sesquicentennial Commission. As Senator Breaux so aptly pointed out, the 150th anniversary presents a significant opportunity to appreciate what some have called the great single event in our history. The Civil War cost 620,000 American lives, 4 million slaves were freed, and it led to the passage of three constitutional amendments.

With the 150th anniversary of this war, we have an opportunity now to really examine the issues and the social forces that were at work then and continued to work through the following 150 years in shaping this Nation.

We would like to recommend some amendments. We feel that a 27-member committee is too large. Our experience in dealing with committees is that 15 to 17 is about the right size for a committee or a commission, and we would like to recommend that it be amended to reduce the size accordingly.

We would like to recommend an amendment to authorize the Secretary, not the President, to make the appointments.

We would like to recommend an amendment to allow 180 days to make those appointments as opposed to the 60 days articulated in the bill.

We would like an amendment to designate a lead agency for this commission.

And we would like to ask that the bill be amended to reduce the authorized budget from \$500,000 to \$250,000 given existing budget constraints and the pressing needs of existing maintenance backlog issues and operations of national parks.

Typically the way these commissions work is that they go out and raise money in the private sector, and we believe that \$250,000 will be a good seed fund available to help them get established and to go out and raise the kind of money they need for the promotion of the sesquicentennial.

Senator THOMAS. That is \$250,000 for 12 years.

Mr. HOFFMAN. Yes.

S. 1092, authorizing the national data base to identify, locate, and catalogue memorials, monuments, and markers that recognize American veterans. Mr. Chairman, we oppose this bill.

The National Park Service maintains its own data base of historic and prehistoric structures, which includes 26,531 structures. Of those 26,000, 3,760 are memorials or markers. Of those, 3,196 recognize veterans, and of those, 2,876 are related to the Civil War veterans.

This bill requires the cataloguing of all monuments on all lands, and we believe that that would put the Park Service well outside its normal mission. We oftentimes do not get the best of receptions in areas where we work, and to have to go out onto city lands and State lands and private lands and ask people to provide information about markers or monuments on their lands might put us over the edge with some folks.

There is an existing data base due to the good work of Mr. Brian Rooney. The Remembering Veterans Who Earned Their Stripes has developed a data base and we believe that this data base should be further developed. We would like to work cooperatively with that organization, sharing the data that we have and perhaps providing some technical assistance or guidance in helping to enhance that data base.

There are also grants available that might be able to help establish this data base and help with the maintenance of these markers: Save America's Treasures or Chairman Nau's favorite program, Preserve America, perhaps.

We appreciate very much the efforts and the work that Mr. Brian Rooney has put into this project, but unfortunately it falls outside our mission, scope, and resources at this time.

S. 1748, National Park Service management of all sites honoring past Presidents. Mr. Chairman, we oppose this bill.

This is much too large of an obligation to be absorbed by the National Park Service at this time. As you know, for the past 4 years, we have been busily trying to address the maintenance backlog issue and just maintain our existing operations. And to take on such a large obligation at this time would not be prudent use of taxpayer funds.

There are existing family foundations, historical societies, historic preservation organizations, and other NGO's that can and do manage these sites and we would not want to put ourselves in the position of having to take that, wrench that management from them.

We are happy to help those folks with grant applications and technical assistance and management training assistance as necessary, but we simply cannot take all those sites on.

[NOTE: I would like to clarify statements I made in my oral presentation regarding S. 1748.

The bill would establish a grant program whereby the National Park Service (NPS) would help maintain and improve presidential sites that are not part of the National Park System (System). The NPS does not intend on managing or assisting in the management of any sites that are not currently a part of the System.]

S. 2052, designation of the El Camino Real de los Tejas as a national trail. We support this bill, Mr. Chairman, with technical amendments.

As was previously stated, this is a 2,600-mile trail system. It is actually three trails that run concurrently but do branch off at a couple different points, and it runs from the Rio Grande to Natchitoches, Louisiana. These trails extend into Mexico, but this designation, of course, would only apply to the United States portion of those trails, and the State Department has put their blessing on this designation.

A trail designation under the National Trails System Act only puts a trail on the map. It provides for public access to trails when those sections of the trails are owned by the Federal Government or if a certification agreement is reached with a private property owner to allow public access to that trail. There is no Federal land acquisition process associated with the trail designation. There are no Federal land management overlays associated with the trail designation. And the National Trails System Act fully recognizes and protects private property rights associated with any trail designation.

There is some confusion sometimes with the terminology associated with this act. Designation and establishment are used interchangeably in the act. That is the process of actually putting the trail on the map, as I indicated before.

Then there is the certification of a segment of a trail, and that is the process of reaching an agreement with a private property owner to allow public access and use of that section of the trail. Each of those certification agreements are individually negotiated with each individual private property owner, and they are only limited by the negotiators' imaginations. The private property owner can add whatever qualifications they want in terms of times of day that people can get on the trail, what kind of activities they will continue to do on the trail, regardless of the designation, whatever they want to put in there.

We estimate that the annual cost associated with administering this particular national trail would be approximately \$500,000 a year. I grew up in southern California as well, Senator Campbell, and I too spent a lot of time on the El Camino Real. There is, in fact, another El Camino Real de la Tierra Adentro that was studied at the same time the de los Tejas trail was studied. In fact, it has

been designated as a national trail, and it runs up from the Rio Grande up into Colorado. So I guess it is somewhat analogous to our interstate highway systems. We should just put numbers after them instead.

[Laughter.]

Mr. HOFFMAN. The Spanish interstate highway system.

S. 2046 authorizes a land exchange at Everglades National Park. Mr. Chairman, I would like to make a correction to the Department's written testimony on this bill. We state in that testimony that we believe no formal appraisals have been completed for the smaller exchange involving the GSA, Miami-Dade County, and the U.S. Navy. We have been informed that appraisals were conducted by the Navy and the lands involved were determined to be of equal value. We will be happy to provide the subcommittee with a corrected copy of that testimony.

We support this bill with amendments. This bill seeks to authorize the exchange of 1,054 acres of land between Everglades National Park and the South Florida Water Management District. There has not been an appraisal of these lands. However, they are determined to be of roughly equal habitat value. When we do appraisals, we do appraisals by something we call the uniform appraisal standards for Federal land acquisitions, and those have to use standards adopted by industry groups as to quantifiable ways to determine economic fair market value. And it is not a very suitable system for determining habitat value or other use values.

This exchange is necessary to facilitate the C-111 project, which is an Army Corps of Engineers project, to modify the water flows in the south Florida ecosystem and would help restore the environmental integrity to the Everglades National Park, while protecting Miami and Dade County from flooding.

We analyzed five exchanges before bringing this one forward, and the exchange you have before you is the one picked because it adds the most value to the resources of the park.

Some people will question whether or not this is replumbing, if you will, of the Everglades water quality issues and suggest that something in this bill should address water quality. Our position is that water quality is adequately addressed by a host of other laws that are already on the books and we do not need to address that in this bill.

Amendments we would recommend to this bill include that we articulate that the lands going to the South Florida Management District are to be used for the C-111 project.

Another amendment would direct the Miami-Dade County exchange with the Navy that I referred to in our written testimony. In the 1,054 acres that the Park Service would receive, there is a 153-acre hole in the donut, if you will, that belongs to Miami-Dade. Miami-Dade is working on a separate exchange with the Navy to make that 153 acres part of the 1,054-acre exchange. So what we would suggest is that the bill be reworded to sequence these exchanges, that the big exchange does not occur until the hole in the donut is filled, if you will.

And we would like to have this bill amended to authorize the Secretary to acquire no more than 10 acres outside the boundary of Everglades National Park from willing sellers for administrative,

housing, maintenance, and other uses. Currently there were some houses that were condemned by the National Park Service as part of what they call the MOD Waters project, and those houses eventually will need to be razed as that area is reflooded as part of the comprehensive Everglades restoration project. But we in the interim have been using those for law enforcement and fire protection because they provide a much faster response to the areas that need protection. So we are going to be in need of some place to house those people when those other places are no longer available.

Lastly, S. 2319, the land exchange to facilitate the FERC hydro-power relicensing of the Tapoco Project or, as we affectionately call it, the "tapioca project."

The Tapoco Project is a series of four dams with power plants along a river system that is in between Great Smoky Mountains National Park and the Cherokee National Forest. These dams and plants are owned and operated by Alcoa Power Generating, Incorporated, and all four of these hydroelectric projects provide electricity that supports 2,000 jobs in eastern Tennessee, 2,000 significant manufacturing jobs for eastern Tennessee.

Under the law, FERC cannot relicense the Chilhowee facility because, as it was pointed out earlier, it floods National Park Service lands. It is approximately 100 acres that are flooded, and this bill would propose to exchange 100 acres of National Park Service land for 186 acres of land owned by Alcoa Power Generating, Incorporated.

This land exchange is part of an overall settlement agreement on the whole Tapoco relicensing project that is really a remarkable agreement that best exemplifies Secretary Norton's four C's: conservation through cooperation, communication, and consultation. It is hard to list all of the parties that have been involved in the negotiation of this agreement. It is so extensive. It is literally dozens of organizations from local counties, States, environmental quality boards from the various States, the Fish and Wildlife Service, the BIA, the National Park Service, NGO's, and of course, the private sector.

Also, this exchange is required to be done legislatively because, once again, we do not have appraisals on these lands because the values of these lands and the value of the overall settlement agreement make it much too complex to appraise under the uniform appraisal standards.

The 100 acres that would be exchanged that would go to Alcoa would include a reversionary agreement, such that if the project ever went away and those lands were no longer flooded, the land would revert back to the National Park Service. So that addresses Senator Akaka's philosophy that we never completely give up National Park Service land at least. The Park Service would retain authority to manage the 100 acres, which would facilitate their management of the land adjacent to that 100 acres that is flooded.

The lands that the park would acquire are between a set of power lines and a highway, and the addition of that 186 acres of land to the national park will greatly facilitate that park management of that boundary line, particularly as it pertains to managing hunting because it is a little bit confusing because hunters can get

off the road and hunt there, and then the park line is back in the woods and it is more difficult for the park to manage that border.

The settlement agreement has other elements that are separate from this legislation. It includes conservation easements that would go to the Nature Conservancy, giving them a first right of refusal to purchase those conservation easements if the Forest Service or the Park Service do not ever come up with the money. There is one 5,500-acre conservation corridor that would conserve the land between the national park and the national forest, providing a migration corridor for wildlife. There are 4,000 acres in eastern Tennessee that would enhance conservation there, and there are another 400 acres between highways and power lines that would, again, improve the management ability of the National Park Service.

The agreement also restores stream flows between a couple of the dams on the project, which will enhance recovery of endangered fish and also enhance recreation opportunities in that corridor. The agreement includes recreation easements on the lake shores of Alcoa's reservoirs to enhance recreation opportunities for the locals in the area, as well as visitors to the area. And Alcoa will fund a \$100,000 per year conservation fund to help mitigate other impacts from the project, and they will also fund \$25,000 a year to the State of North Carolina for projects that they want to do.

An amendment we recommend to the bill is that the reversionary language not include having the dam or the reservoir revert to the National Park Service. We are really not in the dam management business. Hold the "n" please.

We would like to seek some clarification on when the reversion occurs, and we will be glad to work with the staff on that.

We would also like to see an amendment that would remove the language that waives NEPA and the National Historic Preservation Act study requirements. We have done those studies and we believe those studies support the settlement agreement and this exchange. So there is no need to waive that requirement.

And then a technical amendment to reconcile some language between section (a)(2) and section (4)(f).

And with that rather lengthy testimony, I would open it up to questions, Mr. Chairman.

[The prepared statements of Mr. Hoffman follow:]

PREPARED STATEMENTS OF PAUL HOFFMAN, DEPUTY ASSISTANT SECRETARY, FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR

S. 1064

Mr. Chairman, thank you for the opportunity to appear before you today to present the views of the Department of the Interior on S. 1064, a bill that would establish a commission to commemorate the sesquicentennial of the American Civil War. The Department supports the enactment of this legislation with some amendments outlined in our testimony and believes that establishment of the commission would help ensure that the lasting legacy of the Civil War is understood and appreciated by all Americans.

S. 1064 would establish a Civil War Sesquicentennial Commemoration Commission to cooperate with and assist States and national organizations with programs and activities to ensure a suitable national observance of the 150th anniversary of the Civil War and to ensure that the anniversary will have lasting educational value. It also authorizes a grant program to specific institutions listed in the bill.

The Civil War was, in the words of Robert Penn Warren, "the great single event of our history." It was a wrenching conflict that resulted in the loss of 620,000 lives,

the liberation of four million African American slaves, and the ratification of three Constitutional amendments that forever changed the face of American democracy. The Civil War ultimately decided the supremacy of the Federal government over state sovereignty, even though the issue of “states’ rights” continues to be the subject of both constitutional debate and arguments before the courts. The United States by 1870 was a very different place from what it had been in 1861. In 1865 Congress abolished slavery, in 1868 Congress declared the newly freed men and women citizens of the United States, and in 1870 Congress guaranteed their right to vote. The importance of the Civil War can be fully understood only when one takes the long view and understands that the political revolution wrought by the Fourteenth and Fifteenth Amendments to the Constitution was not fully realized for a century after the events of April 1865 at Appomattox. S. 1064 is mindful of this reality as it directs the Commission to recognize “the experiences and points of view of all people affected by the Civil War,” and provides for the development of “programs, projects, and activities on the Civil War that have lasting educational value.”

As S. 1064 acknowledges, the military aspects of the Civil War are important events to commemorate. It is equally important, however, as we prepare to reflect on the war from the vantage point of a century and a half later, that we explore the causes of the conflict to understand better how the democratic framework of the country failed to resolve the sectional issues short of war. Likewise, we would be doing a disservice to those who fought and fell, if the sesquicentennial did not fully examine and reflect upon the consequences of the Civil War including not only the Reconstruction era and its failure, but also the subsequent constriction of equal rights for African American citizens, and the ultimate achievement of those civil rights for the descendants of enslaved peoples almost a century later. To that end, it would be instructive to consider the efforts of the Centennial Commission of the Civil War and its efforts to commemorate the war.

Most ignored the fact that the nation had failed to resolve the debate over the nature of the Union and to eliminate the contradictions between its equalitarian ideals and the institution of slavery without resort to a bloody civil war. Instead, they celebrated the war’s triumphant nationalism and martial glory.” This celebration of the war and its memory was at the forefront of the events marking the centennial of the war during the 1960s. Throughout all of the reenactments, parades, gala balls, cake sales, and speeches, very little attention was paid to the causes of the war or its lasting legacies, legacies that were vividly playing out during the early 1960s in the form of freedom rides, sit-ins, marches, and boycotts. The war was remembered primarily as a symbol of military honor, reunification and reconciliation. In so doing, according to Harvard University historian Oscar Handlin, the commemoration “grotesquely distorted the actuality of the war as it had been. And the continued preservation of that symbol also obscures the surviving problems left by the war.”

As the country approaches the 150th anniversary of the war, we are mindful that it is a different country than it was fifty years ago. The sesquicentennial of the war will be commemorated within a different political and social environment from that of the centennial. The meaning of the Civil War can be explored more fully. Its causes and consequences, subjects Congress directed the National Park Service to address beginning in 1989 and 1990, can and must be a major part of the sesquicentennial.

The sesquicentennial should assume the broadest possible approach to remembering and commemorating the war. However, this must be accomplished with less funds for both the planning and implementation. With that in mind, I respectfully urge this committee to consider the following suggestions for strengthening 5.1064 and making its implementation more efficient and effective.

First, the bill emphasizes military history over other aspects of the Civil War era. We recommend that additional states be considered to provide the broadest possible presentation of the war and that other scholarly centers and programs be added so that the social, political, and economic aspects of the war receive equal emphasis. For example, the Virginia Center for Digital History (University of Virginia) with its The Valley of the Shadow project could contribute much to this effort. Other entities that might logically be considered would include the Center for Study of the American South and the Center for the Study of Southern Culture. The Civil War was a national experience; its sesquicentennial commemoration should likewise represent a broad spectrum of the nation. In addition, we believe that section 7 of the bill should be amended. We can get the best return for the taxpayer money by establishing a discretionary program that awards grants through a competitive process and does not specify in advance who should receive funds. As these organizations are leaders in Civil War history, they would likely compete well for grants without a statutory earmark.

Second, respecting the importance of the appointments to this nationally important commission, we recommend that the bill allow for 180 days instead of sixty days for the selection of the commission members, and that those selections be made by the Secretary of the Interior instead of by the President.

Third, the bill envisions a commission that would include twenty-seven members. We believe a commission of this size would significantly impede the timely selection of its members, diminish its ability to work efficiently and effectively, and would be too costly. We recommend a smaller commission, with perhaps fifteen or seventeen members.

Fourth, S. 1064 does not designate a lead department or agency. We recommend a lead agency be designated.

Fifth, the bill authorizes \$500,000 for each fiscal year to carry out the purposes of this Act. We recommend only \$250,000 a year be authorized for this effort given other competing priorities and the need to focus federal funds on our parks and other essential programs.

Finally, the U.S. Department of Justice and the Office of Government Ethics have raised a number of structural issues with S. 1064 which we will provide to the Committee at a later date.

Establishing a commission to commemorate the sesquicentennial of the Civil War as envisioned in S. 1064 would provide the nation an opportunity to reflect upon this momentous event within an environment that would be inclusive and contemplative. It would enable all Americans to reflect anew upon the war, its consequences, and its lasting legacies. It would result, we can hope, in greater public insight into the war and promote increased awareness of its shadow in our society today.

This concludes my prepared testimony, Mr. Chairman. I would be pleased to answer any questions you or the committee might have.

S. 1748

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 1748, a bill to establish a program to award grants to improve and maintain sites honoring presidents of the United States.

The Department supports efforts to protect Presidential sites, which honor our country's former presidents and are an important historical part of our national heritage. The birthplaces, museums, memorials, and tombs provide excellent resources to study and learn about our past presidents' lives, leadership, and values. The value and educational benefit of visiting first hand the birthplace or other memorial site of a person one has read or studied about can leave a very indelible impression that cannot be acquired in any other way. Being involved in history and in the lives of those who have contributed to our American legacy through physical, mental, and emotional contact with the things that helped shape their lives or the places that store their remains can bring a deeper appreciation of our country's struggles and the heritage we enjoy today.

However, because of the financial implications of this bill on national parks and park programs, the Department opposes the enactment of S. 1748 at this time. The Department is committed to supporting the President's Initiative to eliminate the deferred maintenance backlog in our national parks. We believe funds are more appropriately directed at this time to reducing the long list of necessary but deferred construction projects that have been identified in our national parks.

Our opposition does not detract from the significance and importance of creating partnerships with public and private entities to preserve and maintain the non-Federal Presidential sites of our nation's past presidents. Rather, our opposition is due to our belief that it is inappropriate to use limited National Park Service appropriations to fund maintenance and improvement projects for institutions and sites that are not part of the National Park System.

We encourage the family foundations, historical societies, historic preservation organizations, and other non-profit organizations that own the majority of these sites to continue to seek funding for the maintenance and improvement projects necessary to prevent further deterioration and continued interpretation of these sites and structures. We believe that there are other sources of funding available for the restoration and maintenance needs of these Presidential sites. One national example is the Save America's Treasures program that awards grants for preservation and conservation work on nationally significant intellectual and cultural artifacts and nationally significant historic structures and sites. These Presidential Sites are "national class properties" and would, we believe, compete favorably in the Save America's Treasures program as well as in any other fundraising campaign. The Depart-

ment would be more than happy to assist with developing Save America's Treasures applications to accomplish this important work.

S. 1748 authorizes the Secretary of the Interior to establish a grant program to help pay for the Federal share of major repairs, modifications, and capital and interpretive improvements to existing non-Federal Presidential sites. The Federal share of the cost would be 50 percent or less of the total cost of a project. Appropriated funds of \$5 million would be authorized for fiscal years 2004 through 2008, with funds available until expended. The bill states that 15 percent of the grant money would be used for emergency projects; 65 percent for Presidential sites with a 3-year annual operating budget of less than \$700,000, with an endowment less than 3 times the annual operating budget; and 20 percent for sites with an annual operating budget of \$700,000 or more, with an endowment equal to or more than 3 times the annual operating budget. It also states that unexpended funds may be used for another category of projects described in the Act.

S. 1748 also outlines the application and award procedures and authorizes the establishment of the Presidential Site Grant Commission (Commission). The operators and owners would submit applications to the Secretary who would then forward them to the Commission. The Commission would review the applications and make recommendations to the Secretary for grant assistance. Of the five members on the Commission, two of the four members appointed by the Secretary would represent the Presidential sites eligible for grant awards. The term for an appointed member is two years. The bill states that during the two-year period in which a representative of a particular site serves on the Commission that site would be ineligible for grant money under this Act.

Presidential sites honor our country's former presidents and are an important historical part of our national heritage. The birthplaces, museums, memorials, and tombs provide excellent resources to study and learn about our past presidents' lives, leadership, and values. While we recognize that these sites provide a valuable link to understanding our country's history and government, we believe that National Park Service funds should not be authorized for this purpose.

Mr. Chairman, this concludes my prepared testimony. I would be happy to answer any questions you or your committee may have.

S. 2046

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the Department of the Interior's views on S. 2046. This bill would authorize a land exchange at Everglades National Park for the purpose of implementing an important restoration project that will benefit park habitat and resources.

The Department strongly supports an exchange of land between the South Florida Water Management District (District) and Everglades National Park (Park), as proposed in S. 2046, with amendments that are attached to this testimony. We have worked closely with the Department of the Army and the State of Florida on the proposed amendments related to the exchange so that it clearly states the purposes of the exchange and ensures that other administrative actions will be completed to effectuate the exchange contemplated by S. 2046. We understand that the State of Florida has expressed its support for the exchange.

S. 2046 directs the Secretary of the Interior (Secretary) to exchange approximately 1,054 acres of land from the Rocky Glades area of the park for approximately 1,054 acres of District land located in the Southern Glades Wildlife and Environmental Area. The park lands that are exchanged would be used for the C-111 project that is intended, among other things, to restore park habitat that has been adversely affected by the Central and Southern Florida Project, as well as restore more natural flows of water to the park's eastern panhandle, and Taylor Slough, as well as Florida Bay.

The parcels proposed for exchange have been studied and found to be similar. There has, however, been no formal appraisal of the two parcels. Additionally, the NPS does not expect to incur increased operational costs associated with the exchange because of the restricted access to the area adjoining the lands the park would acquire and because the park's current operational responsibilities for lands that the park would be giving up would essentially be transferred to the proposed new additions.

Everglades National Park is one of the most unique ecological reserves in the nation and is unlike any other national park in the world. It is also, unfortunately, one of the most threatened of our national parks. Conditions arising in the south Florida region which threatened this park are well known to this Subcommittee and are the subject of several projects authorized by the Congress to attempt to restore aspects of the original physical and biological features of the historic Everglades.

For example, in the Water Resources Development Act of 1996, Congress authorized modifications to one project, the C-111 Project, to address restoration along the park's eastern boundary. As set forth in the May 1994 Final Integrated General Reevaluation Report and Environmental Impact Statement for the C-111 Project, features will be constructed that will limit water losses from the park through ground water seepage and restore more natural water flows and level through Taylor Slough, the eastern panhandle area of the park, and into northeastern Florida Bay.

While maintaining the authorized level of flood protection for agricultural activities adjacent to the park and within the C-111 basin, features include the construction of four pump stations in the L-31N and C-111 canals and a series of retention areas just east of the park boundary to prevent the loss of water from the park through seepage.

In addition, a fifth pump station and distribution canal is specified in order to direct water into the Eastern Panhandle region and restore more natural flows through Taylor Slough to Florida Bay. The flow capacity in Taylor Slough would be increased through construction of two new bridges, spoil mounds south of the C-111 canal would be removed, and the C-109 and C-110 canals and levees would be removed. Funding has been provided by the U.S. Army Corps of Engineers (COE) and State of Florida, with some additional amounts for land acquisition from the Department of the Interior.

The NPS, working with the COE and the District, evaluated the modifications as described above to the C-111 project and determined that land previously included within Everglades National Park would be needed for construction and completion of the project. S. 2046 would allow NPS, through an exchange, to provide the necessary lands to complete the project modifications and obtain an equal amount of acreage from the District, adjacent to the park boundary, which when incorporated into the park, would conform to the NPS's goal of no net loss to the park.

NPS evaluated five exchange alternatives in order to determine the maximum net gain in resource values for lands to be acquired. In consultation with the U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission, the NPS established resource based criteria and evaluated the exchange alternatives as a part of the *Final Integrated General Reevaluation Report Supplement and Environmental Assessment*, completed in January 2002. *The study's selected alternative proposed an exchange of lands as specified in S. 2046, which would result in an equal acreage exchange but an overall increase in resource benefits provided to the park.*

Although the necessary exchange has not yet been completed, to date the project has accomplished the following important restoration goals. Three of the five pump stations and portions of related detention areas have been completed, the C-109 levee and canal and spoil mounds in the lower C-111 have been removed, two new bridges in Taylor Slough along the park road have been completed, and the District has purchased most of the land required for the project. Operations of the final project features for the C-111 Project will be assessed in the Combined Structural and Operational Plan (CSOP) for both the C-111 and Modified Water Deliveries Project. Work on developing this plan is ongoing and is scheduled for completion by the COE in June 2006.

Fundamentally, however, S. 2046 is needed so that work may proceed as planned. Although we strongly support the exchange, we suggest three amendments to S. 2046. The first would clarify the use of the federal land conveyed to the District. It clarifies that the lands to be provided by the park under the exchange are for the purpose of implementing the project as previously planned and authorized by Congress.

The second would direct the completion of additional federal administrative actions that are necessary to complete the exchange. In brief, it directs completion of a smaller land exchange between Miami-Dade County, the U.S. Navy, and the NPS in order to acquire into federal ownership 153 acres within the 1,054 acres of park land to be exchanged under S. 2046. We had been examining options for completing this exchange administratively. We believe this exchange should be included in this bill since this exchange must occur before the exchange envisioned in the bill can take place. As with the larger exchange, no formal appraisals appear to have been done. All parties, however, support the exchange, and believe the values are similar.

The third amendment would authorize the Secretary to acquire no more than 10 acres outside the park boundary, from willing sellers, in the vicinity of the East Everglades portion of the park for administrative, housing, maintenance and other park uses.

That completes my testimony. I would be happy to answer any questions that you or any members of the Subcommittee may have.

PROPOSED AMENDMENTS

S. 2046—LAND EXCHANGE IN EVERGLADES NATIONAL PARK

Page 3, line 3, strike “compatible with” and insert “for”.

Page 2, line 22, add the following at end of the first sentence:

“Prior to the Secretary’s conveyance of fee title to the Federal land to the District, the Administrator of the General Services Administration shall exchange, as expeditiously as possible, approximately 595.28 acres of land declared excess by the Department of the Navy, known as ‘Site Alpha,’ for two parcels of land, known as ‘Tract 605-01’ and ‘Tract 605-03’ and totaling approximately 152.93 acres, owned by Miami-Dade County. Upon completion of the exchange, the Administrator of the General Services Administration shall transfer administrative jurisdiction for Tract 605-01 and Tract 605-03 to the Secretary without reimbursement.”

Page 3, line 10, add a new section:

“SEC. 2. ADMINISTRATIVE SITE.—Section 102 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r-6) is amended:

(a) by inserting “(1)” before the first sentence in subsection (a), and

(b) by adding the following new paragraph:

(2) The Secretary may acquire up to 10 acres from willing sellers outside the park boundary, but adjacent to or in the general proximity of the East Everglades area of the park, for the development of administrative, housing, maintenance or other park purposes. Upon acquisition, the land shall be administered as part of Everglades National Park in accordance with applicable laws and regulations.”

S. 2052

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior’s views on S. 2052, a bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

The Department supports S. 2052 with amendments to clarify the differences between designation of the trail and certifying sites and segments to be managed as part of the trail.

S. 2052 would add the Camino Real de los Tejas as a national historic trail component of the National Trails System only on publicly owned land. Making sites and segments of the trail available for public use where the trail crosses privately owned lands would be authorized only upon the consent of the owner when the site qualifies for certification. Subject to the provisions for privately owned lands, the bill would designate a series of routes, totaling approximately 2,600 miles.

The designated trail would include the evolving routes of the camino real as well as its successor, the Old San Antonio Road. The trail would extend across a 550-mile-long corridor from the Rio Grande near Eagle Pass and Laredo, Texas to Natchitoches (*pronounced Nack-a-dish*), Louisiana with trail administration provided by the Secretary of the Interior. No land or interest in land outside the exterior boundaries of any federally administered area could be acquired by the United States for the trail except with the consent of the owner. S. 2052 also would allow the Secretary of the Interior to coordinate activities with the United States and Mexican public and non-governmental organizations, academic institutions and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions. Finally, the bill also calls for the Department to consult with appropriate state agencies including exchanging trail information and research, fostering trail preservation and education programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

The National Park Service (NPS) was authorized to study both El Camino Real de los Tejas and the Old San Antonio Road by P.L. 103-145. The *National Historic Trail Feasibility Study and Environmental Assessment, El Camino Real de los Tejas—Louisiana* was completed in July 1998. The study concluded that both roads met all national historic trail criteria as defined by the study provisions of the National Trails System Act (16 U.S.C. 1244). The study was presented to the National Park System Advisory Board and the board concurred with the findings.

El Camino Real de los Tejas was the primary route between the Spanish vice-regal capital of Mexico City and the Spanish provincial capital of Tejas at Los Adaes (*pronounced Uh-die-us*) (1721-73) and San Antonio (1773-1821). The camino real, bringing Spanish and Mexican influences northeastward, led to the exploration, conquest, colonization, settlement, migration, military occupation, religious conversion, and cultural interaction that helped shape what are now the southern borderlands of the United States.

The Old San Antonio road brought American immigrants and influence westward to Texas during the early 19th century. This large-scale immigration led to revolt, creation of the Texas Republic and eventually its annexation to the United States, which in turn precipitated war between the U.S. and Mexico.

While the entire route of El Camino Real de los Tejas extended over 1,600 miles from Mexico City to Los Adaes, today most of the route lies in Mexico. S. 2052 would allow for collaborative programs with Mexican institutions, both public and private, that would help in fully understanding the history, geography, and cultures of the entire route. Interest has been expressed by officials in Mexico for developing preservation and education programs along Mexico's part of El Camino Real de los Tejas. If this complementary program were implemented, an international historic trail would be created with benefits leading to an increase in mutual understanding between our nations.

Partnerships and cooperation, keystones to the development of the National Trails System, are essential to bring about the preservation and interpretation of El Camino Real de los Tejas resources. The trail crosses public and private lands and it is important that the intent of the National Trails System Act be met by respecting private property rights. Respecting property rights will develop solid and long-lasting relationships with partners and help stimulate and maintain a strong, grass-roots-managed trail system. It is also vital that we acknowledge the pride and stewardship of all our partners, private and public, in their voluntary and good faith efforts to preserve and appropriately share their part of our national patrimony.

With continued and even increasing public interest and efforts to help commemorate it, opportunities for partnerships along El Camino Real de los Tejas are very promising. Longterm success of the trail will depend on continued involvement from partners as well as the States of Texas and Louisiana, landowners, and other organizations and individuals. In that regard, we would strongly encourage the early creation of a nonprofit trails organization to represent the various constituencies along the trail and to enhance the public/private partnerships that make nationally designated trails successful.

Should S. 2052 be enacted, the NPS, subject to availability of funds, would prepare a comprehensive management plan with public input to identify the goals and objectives for trail preservation, research, interpretation, public use, trail marking, and cooperative management. The required national historic trail advisory council would be established with broad representation of those interested, including private landowners, to advise on trail planning and administration matters. The NPS would implement the plan by creating a trail administration office to provide technical and limited financial assistance for preservation, historical research, planning and design for interpretation and development projects. It would also manage the negotiating and certifying of qualifying sites, trail segments, and interpretive facilities. NPS would develop and manage the official trail marker symbol, marking the route and negotiating agreements with different trail partners. This would include establishing agreements with Mexico to enrich our understanding of trail history and to exchange information to enhance resource preservation and public understanding. This would involve some increased operational costs, although most trails have annual funding of less than \$300,000.

We believe there is some confusion with regard to the language that seeks to assure that private property rights are protected and we recommend that this language be clarified to eliminate this confusion. When Congress adds a trail to the National Trails System Act, designation of the trail and certification of sites and segments are two separate actions. Designation of the trail involves the acknowledgment of a continuous route on a map with a beginning and an ending point. This route is consistent with the findings of the study completed for the trail.

However, the designation of this route does not mean that each piece of land that makes up the route is open and available for public use. Sites and segments are only available for public use through the certification process whereby the NPS would discuss with private landowners whether they would like the portion of the trail through their property to be part of the designated trail. No landowner is required to have his property available for use even though a trail is designated by Congress.

Should a landowner agree to have any site or segment certified for a designated trail, the NPS Intermountain Region, which administers eight national historic trails and would be responsible for the trail designated by S. 2052, includes language in its certification agreement to protect private property rights. That language reads: "The owner retains all legal rights to the property, and nothing in this agreement is to be construed as granting any legal authority to the National Park Service over the property or any action by the owner." Landowners retain complete rights to their lands and only participate in trail programs to the extent that they

desire through the certification process. Under existing authorities, neither trail designation, nor certification gives the Federal government any control over private lands.

Some of the language proposed in this bill to protect private property rights is already found in the National Trails System Act, and we believe creates confusion between the designation and certification processes. We would be glad to work with the committee on alternative language to eliminate this confusion.

We appreciate the committee's interest in this legislation. That concludes my remarks and I would be happy to respond to any questions that you may have.

S. 2319

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views regarding S. 2319. This bill would authorize and facilitate hydroelectric power re-licensing of the Tapoco Project, near Great Smoky Mountains National Park.

The Department supports S. 2319 with the amendments discussed later in this testimony. We believe that the exchange authorized in S. 2319, together with the comprehensive Settlement Agreement discussed later in this testimony, is an excellent example of Secretary Norton's 4 C's, Conservation through Cooperation, Consultation and Communication and demonstrates how environmental groups, local and state governments, industry, tribes, and the Federal government can work cooperatively on the conservation of important environmental resources.

S. 2319 would resolve a jurisdictional issue by allowing the Federal Energy Regulatory Commission (FERC) to issue a new license to Alcoa Power Generating Inc. (APGI) to operate its existing Tapoco Project (FERC project # 2169), a system of four hydropower dams on the Little Tennessee and Cheoah rivers straddling the North Carolina-Tennessee border. The bill also authorizes the Secretary to exchange lands within Great Smoky Mountains National Park (park) with APGI. Once the exchange is completed, the bill allows FERC to re-license the project. The Secretary and the Secretary of Agriculture are also authorized to acquire title to additional lands that may be transferred to a nongovernmental organization, as part of the Settlement Agreement related to this project, and add them to the boundaries of the park or the Cherokee National Forest.

In 1999, when APGI began work on a re-licensing application with FERC to continue the operation of the Tapoco Project, it was discovered that a portion of the project, known as Chilhowee Reservoir, inundates approximately two miles of government-owned lands along Abrams Creek and shorter segments along three other streams, all within the 1926 authorized boundary of the park. This situation has existed since the 1950's when Chilhowee Dam was completed and originally licensed by the former Federal Power Commission. FERC does not have the legal authority to issue licenses for hydropower projects that flood lands within authorized national park boundaries.

The Federal Power Act and the enabling legislation for the park specifically prohibit hydropower projects within the park. The historical record, from the 1950's and earlier, of how the licensing was allowed to occur is unclear. Records indicate that the NPS and the Federal Power Commission were aware of the jurisdictional defect, but no evidence has been found that proves that the issue was legally resolved. It appears that the Federal Power Commission granted the license and the decision was not challenged.

S. 2319 would resolve this situation by requiring a transfer of approximately 100 acres of submerged lands along Abrams Creek, and three smaller tributaries within the park, to APGI and granting jurisdiction to FERC to re-license the Tapoco Project and the operations at Chilhowee Dam and Reservoir. In exchange, the park would receive fee title to 186 acres of forested uplands within its authorized boundary that are currently under APGI ownership and retain management and enforcement rights over the 100 acres transferred to APGI. The bill also contains a reversionary clause that stipulates if the dam is ever breached or removed, the submerged lands would revert to the NPS.

The exchange would extend park-owned land to the east shoulder of U.S. Highway 129 for approximately three miles. Currently, park-owned land stops at a powerline easement well to the northeast of the highway. This gap between the highway and the powerline creates an isolated pocket of land within the park boundary that poses ongoing management and law enforcement problems. Because of the reserved management easement, NPS rangers would continue to patrol the four flooded creek embayments within the park and enforce park rules, even though the underlying fee interest in the land will now belong to APGI.

Critical to our support of this bill are additional conservation provisions in a comprehensive Settlement Agreement that has recently been developed among APGI, the Department of the Interior, the U.S. Forest Service, Tennessee and North Carolina natural resource agencies, the Eastern Band of Cherokee Indians, local governments, and several nongovernmental organizations. The Settlement Agreement has widespread support from the involved parties and will be filed with FERC to address the issues in the re-licensing of the Tapoco Project, including whether or not Chilhowee should continue to operate as a reservoir.

In addition to the land exchange proposed in S. 2319, under the Settlement Agreement APGI will donate to The Nature Conservancy (TNC) a permanent conservation easement on an additional 400 acres of land it owns in Tennessee, within the park's authorized boundary, but lying southwest of highway 129 and the previously mentioned 186-acre parcel. These lands will continue to be maintained as a wildlife management area under an existing agreement with the State of Tennessee until such time as they might be acquired by the NPS. APGI will also grant an option to TNC to buy the fee interest of this tract for a price reflecting impact on value of the donated easement, and TNC will be restricted from selling the tract to any entity other than the NPS.

In addition to the land exchange provisions in S. 2319, the Settlement Agreement also stipulates that APGI will donate conservation easements to TNC for several other parcels of land. The first permanent conservation easement is on approximately 5,500 acres of land that will be the centerpiece of a "conservation corridor" linking the park with the Cherokee National Forest, immediately south of the project's reservoirs on the Little Tennessee River. TNC will hold the easement and the property will be available for purchase in fee for future addition to the Cherokee National Forest or the park, as appropriate.

The second conservation easement is on approximately 4,000 more acres of APGI lands in Tennessee and would last for the term of the new FERC license. If APGI decides to sell these lands or to sell the project to a different company, it has agreed to make these lands available for purchase by TNC. Through in essence a right of first refusal, TNC would only be authorized to sell these lands to the Tennessee Wildlife Resources Agency, the U.S. Forest Service or the park.

Finally, APGI has agreed to establish a mitigation fund for the project area in Tennessee that will make \$100,000 per year available to the NPS, the U.S. Fish and Wildlife Service, the U.S. Forest Service, TNC, the State of Tennessee, and other stakeholders for actions to mitigate the ecological impacts of the hydroelectric project, such as reducing invasive, non-native, terrestrial and aquatic species, improving wildlife habitats, and conducting relevant ecological research. A similar, but smaller mitigation fund (\$25,000 per year) will be established for projects on the North Carolina portion of the project. APGI will also restore biologically important minimum stream flows to sections of the Little Tennessee River and the Cheoah River that have been bypassed for the last 50 years for power generation.

We should note that an appraisal has not been done on the lands to be exchanged. The value of these lands would normally be determined through an objective appraisal conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA). However, we are mindful that legislated land transfers often promote other considerations that may not lend themselves readily to the standard appraisal process or to equal value exchanges in all cases. In this instance, NPS conveys approximately 100 acres of land to APGI and receives in return a reservation of a conservation easement on the 100 acres of land, a reversion interest on the 100 acres of land, and 186 additional acres of land or suitable equivalent. Conservation provisions also are provided for in the related Settlement Agreement. For these reasons, this exchange results in environmental, management, energy-related and economic benefits for the parties and the public. The balancing of important public policy considerations against the financial implications of proposed transfers are ultimately a question that rests with Congress.

We also have several amendments to suggest. Section 4(c) provides for the reversion of fee simple title to the United States. We would like to work with the Committee, APGI, and other interested parties to address several issues in this subsection. First, the provision requires reversion for fee simple title for the Chilhowee Dam, and we believe the intention of the provision is to require the reversion of the lands identified in Section 4(a)(2), not the dam itself. Second, we would like to discuss with the parties further refinement of the circumstances under which reversion of fee title should occur.

Section 4(g) of the bill states, among other things, that the exchange is deemed to meet the requirements of the National Environmental Policy Act of 1969 and the National Historic Preservation Act. The Department does not believe this broad exemption is necessary. Much of the environmental compliance work necessary to im-

plement the exchange has already been conducted. We therefore recommend striking these provisions from the bill.

In addition, we suggest one technical amendment that will make the land acquisition authorized in Section 6(a)(2) of the bill consistent with that in Section 4(f). The amendment is attached to this testimony.

S. 2319, which will authorize the re-licensing of the Tapoco Project, and the accompanying Settlement Agreement together provide a solution that makes sense, helps protect ecosystem sustainability within the Southern Appalachians, and is widely supported by the involved agencies and groups. We look forward to working with the committee to help this bill move forward.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other members of the subcommittee may have.

PROPOSED AMENDMENT

S. 2319, TAPOCO PROJECT LICENSING ACT OF 2004

In Section 6(a)(2)(A) insert the following after “under paragraph (1)”:
 “and administer any acquired land as part of the Park in accordance with applicable law (including regulations)”

Senator THOMAS. Mr. Robinson, would you care to go ahead with yours?

STATEMENT OF J. MARK ROBINSON, DIRECTOR, OFFICE OF ENERGY PROJECTS, FEDERAL ENERGY REGULATORY COMMISSION

Mr. ROBINSON. Sure, and I will only be speaking on one Senate provision.

My name is Mark Robinson. I am the Director of the Office of Energy Projects. We certificate about 2,000 miles of natural gas pipeline every year. We authorize the construction and ensure the safety of liquified natural gas plants in the United States, and more specifically to why we are here today, we license, administer, and ensure the safety of about 1,600 hydroelectric projects across the country, one of which is the Tapoco Project.

We have a problem. The Tapoco Project was licensed in 1955 and it was licensed to include about 100 acres on four small pieces of land in the Great Smoky Mountain National Park. The Federal Power Act, however, precludes the commission from doing just exactly what it did in 1955, which is to license projects in national parks. The Tapoco Project is up for relicensing, and we need some help. We need to rectify this inconsistency between the Federal Power Act and the specific project.

S. 2319 would do just that by allowing for the transfer of that 100 acres of land that is currently inundated by the Tapoco Project in the Smoky Mountains National Park and the removal of it from park boundaries. If that occurs, then we can consider relicensing this project as it is currently configured, and that would make everything just that much easier, much more smooth at the commission in terms of what to do with this particular project.

Without this provision, without S. 2319, it is unclear exactly what we would do with this particular project. Not licensing and taking the project out of license would mean 52 megawatts of power that is currently being produced by the Chilhowee development, which is part of the Tapoco Project, would no longer occur. That is nothing that anyone is proposing, and so the land transfer appears to be the best route.

If we could put one thing on our wish list with this legislation, it would be that it include a provision that requires the land exchange to occur by the end of December 2004. We would request that because the license expires on February 28, 2005. That would give us approximately 2 months to conclude the licensing process and act on the license application prior to license expiration, which is an objective the commission has had for some time.

What that would also do, it would put a time certain on when the new licensing provisions could go into play. That could include additional flows for recreational purposes, additional recreational facilities, and all sorts of environmental benefits associated with the relicensing of this project.

I would make one comment in terms of the amendment offered by Mr. Hoffman on the NEPA exclusion. If NEPA and the National Historic Preservation Act provisions have already been satisfied, then we have no difficulty with that proposed amendment. If in fact they have not, then I think the bill, as it is currently structured, would give us the best shot of having the land transfer occur by December 2004, and put us in the best position to act on the license application before the license expires and thus allow all those other benefits associated with relicensing to start accruing to the public.

Finally, I would like to just say that this is an example of how our licensees work with numerous stakeholders. We see this all over the country, and I would like to applaud Alcoa as an example for how we can relicense significant hydroelectric projects to the benefits of both power and the environment. And it is significant that we are here this week because, as we sit here, across town the National Hydropower Association has brought together about 200 to 300 hydro operators who are hearing repeatedly, in one session after another, how important it is to try to reach settlements and look across issues, both developmental and non-developmental to ensure adequate licensing of hydroelectric projects.

Thank you.

[The prepared statement of Mr. Robinson follows:]

PREPARED STATEMENT OF J. MARK ROBINSON, DIRECTOR, OFFICE OF ENERGY
PROJECTS, FEDERAL ENERGY REGULATORY COMMISSION

Mr. Chairman and Members of the Committees, My name is J. Mark Robinson and I am the Director of the Office of Energy Projects at the Federal Energy Regulatory Commission (Commission). I appreciate the opportunity to appear before you to discuss S. 2319, the Tapoco Project Licensing Act of 2004, which relates to a hydroelectric project regulated by the Commission. As a member of the Commission's staff, the views I express in this testimony are my own, and not those of the Commission.

BACKGROUND

Pursuant to Part I of the Federal Power Act (FPA), the Commission is responsible for licensing and relicensing non-Federal hydropower projects, managing those projects during their license terms, and overseeing the safety of hydropower dams. Section 4(e) of the FPA authorizes the Commission to issue licenses for projects which, among other things, are located "upon" reservations of the United States.

The Federal Water Power Act of 1920 (FWPA), which in 1935 became Part I of the FPA, originally included national parks in the definition of "reservations." In 1921, Congress amended the FWPA to remove national parks and monuments from the Commission's jurisdiction, and to retain in Congress the jurisdiction to authorize the construction of dams in parks. In 1935, when the FWPA was amended and be-

came Part I of the FPA, Congress revised the definition of the term “reservation” to state that “reservations shall not include national monuments or national parks.”

Establishment of the Great Smoky Mountain National Park—was—first provided for by a Congressional Act approved on May 22, 1926, with a provision specifying that, the provisions of the FFWPA did not apply to the park.

The 359.8-megawatt (MW) Tapoco Hydroelectric Project is located on the Little Tennessee and Cheoah Rivers in Graham and Swain Counties, North Carolina, and Blount and Monroe Counties, Tennessee. The project consists of the 49.2-MW Santeetlah Development, located on the Cheoah River, and the 118MW Cheoah Development, the 140.4-MW Calderwood Development, and the 52.2-MW Chilhowee Development, all located on the Little Tennessee River. The project occupies 387 acres within the Nantahala National Forest, which is administered by the U.S. Forest Service. Notwithstanding the prohibitions discussed above on the Commission licensing projects within national parks, the reservoir of the Chilhowee project is located in part on one hundred acres of land within the Great Smoky Mountain National Park, which is administered by the National Park Service.

The Commission issued the original license for the Tapoco Project on March 17, 1955, for a period of 50 years, effective March 1, 1955, and expiring on February 28, 2005. The 1955 license authorized the construction and operation of the Chilhowee Development, and the continued operation of the Calderwood, Cheoah, and Santeetlah Developments. The license order did not state that a portion of the project would occupy national park land. Moreover, the license application, filed on October 25, 1954, states that “[n]o lands or reservations of the United States will be affected by the . . . [p]roject.” A search of the Commission’s files has produced no information that sheds further light on the matter.

As I have mentioned, the only portion of the Tapoco Project that is located on national park land is a part of the Chilhowee Reservoir. When the reservoir, which has a surface area of about 1,734 acres at normal full pond elevation of 874.0 feet msl, is at full elevation, it inundates approximately 100 acres of national park land.

Water in the reservoir is stored and released in order to provide head for generation at the project. In addition, the reservoir supports the second highest recreational use of the four developments, due to its proximity to Knoxville, and the availability of several boating access points and campgrounds. Also, Chilhowee’s upper end supports a cold- to cool-water fishery, while the lower portion of the reservoir supports a cool-water fishery. The Tennessee Wildlife Resources Agency actively manages the upper portion of the reservoir as a stocked put-and-take trout fishery and stocks catchable sized trout.

THE RELICENSING PROCEEDINGS

On February 21, 2003, Tapoco Division of Alcoa Power Generating Inc. (Alcoa) filed an application for a new license for the project. On July 23, 2003, the Commission issued a public notice of the application. In response to the notice, several agreements in principle were filed with the Commission, setting forth the framework of a comprehensive settlement agreement among Alcoa, the U.S. Department of the Interior, the U.S. Department of Agriculture, the Eastern Band of Cherokee Indians, resource agencies of the States of North Carolina and Tennessee, local governments, and national, regional, and local non-governmental organizations, with respect to relicensing the Tapoco Project. The parties have indicated to Commission staff that they expect to file a settlement agreement with the Commission on or before May 14, 2004.

As part of the agreement in principle, Alcoa agrees to convey to the Park Service, in fee simple, approximately 200 acres of land located outside of the Tapoco Project boundary, and within the authorized boundary of the Great Smoky Mountain National Park. In return, the Park Service would transfer to Alcoa the approximate 100 acres of the Great Smoky Mountain National Park inundated by Chilhowee Reservoir. If these transfers were accomplished, no portion of the Tapoco Project would be located within a national park. However, it is my understanding that the Secretary of the Interior must obtain Congressional authorization in order to complete the transfers.

On March 15, 2004, Commission staff issued an environmental assessment (EA) for the relicensing of the Tapoco Hydroelectric Project.

The EA states that there is essentially no shoreline development on any of the Little Tennessee River mainstem reservoirs other than project-related facilities (project works and recreation facilities), and some small, public, non-project recreation areas. All of the shoreline surrounding the Chilhowee, Calderwood and Cheoah reservoirs is owned by Alcoa, the Tennessee Valley Authority, the Forest Service, the National Park Service, and the Tennessee Department of Transpor-

tation. Moreover, with the exception of a few parcels, most of the property adjoining the project boundary is also owned by these entities. The EA concluded that topography and existing property ownership virtually ensure that these reservoir shorelines will continue to be protected from future development. Further, nothing proposed by Alcoa is expected to change development patterns around the reservoir, or the current uses of the reservoir. Finally, as is often the case for projects in the southeastern U.S., the EA recommends that Alcoa be required to develop and implement a shoreline management plan, in order to protect important aquatic and terrestrial habitats and cultural sites, and to enhance recreation resources by establishing specifications and criteria to ensure that all private and multi-use recreation facilities are properly constructed and maintained.

On the other hand, the EA indicates that, were the reservoir lowered to an elevation where it would no longer inundate the Great Smoky Mountain National Park, virtually the entire 1,724 acre Chilhowee Reservoir would be eliminated, resulting in the loss of the fishery, boating, and other recreation opportunities, as well as the annual loss of 52.2 MW of capacity, or enough to power about 52,000 homes.

The EA recommended that the Commission issue a new license for the Tapoco Project consistent with the agreements in principle. Comments on the EA are due by May 14, 2004.

THE PROPOSED LEGISLATION

S. 2319 would authorize the Secretary of the Interior, consistent with the agreements in principle, to transfer to Alcoa the 100 acres of national park land that are occupied by the Chilhowee Reservoir, in exchange for some 186 acres of land located elsewhere in Great Smoky Mountain National Park, or for equivalent land. S. 2319 further states that, on completion of the land exchange, the Commission will have jurisdiction to license the Tapoco Project.

The land exchange provided for by S. 2319 will allow the Commission to consider Alcoa's proposal to relicense the project in its current form, as contemplated by the agreements in principle, without the need to address the issue of a portion of the project being located in a national park. If the legislation were to provide that the transfer be concluded by December 2004, it would help ensure the Commission's ability to act on Alcoa's proposal by the date the license expires on February 28, 2005.

Thank you. I will be pleased to answer any questions you may have.

Senator THOMAS. Good. Thank you.

On that bill, it indicates that Alcoa will grant a permanent easement for 6,000 acres in the Great Smoky Mountain National Park and Cherokee National Forest, a 40-year recreational easement on 4,000 to the Tennessee Nature Conservancy. Alcoa has all those acres here. Is that the idea?

Mr. HOFFMAN. Yes, sir. They own that acreage in that area.

Senator THOMAS. And so they are going to put a use easement on it.

Mr. HOFFMAN. Yes, sir.

Senator THOMAS. It also indicates at the end of the bill that it authorizes funding necessary. What does that mean?

Mr. HOFFMAN. I believe that pertains to just the cost of actually performing the land exchange, the surveys, the legal document draftings, those sorts of things.

Senator THOMAS. You do not have a number.

Mr. HOFFMAN. I do not have a number. I can get that for you.

Senator THOMAS. But it is not an ongoing maintenance or anything of that nature.

Mr. HOFFMAN. No, sir.

Mr. ROBINSON. There is also a fall-back position. If the land exchange does not occur, the 100 acres for the 186 acres designated, that different lands would be proposed by Alcoa that might be used in lieu of the 186, and I think there is also a further provision that

if that did not occur, there might be some purchase. And I think those funds may go to that as well.

But the objective is to get the 100 acres exchanged for the 186, and I think a timeframe associated with that might put everybody's attention to that specific purpose.

Senator THOMAS. I guess in that cost thing I was just wondering, are they going to pay the Tennessee group for this easement? Or do you know? I guess I am interested in the financial impact of this.

Mr. HOFFMAN. My understanding is that the easements will be given to the Nature Conservancy, and I think maybe the Nature Conservancy buys the easements. They hope to then sell the easements to the National Park Service and/or the Forest Service at some point in the future, which will be a separate transaction. If neither the Park Service nor the Forest Service buys those easements at all in the future and there is another renewal or Alcoa determines to dispose of those lands, the Nature Conservancy has the first right of refusal to buy those lands. So it is hoped by the Nature Conservancy that the Federal Government will buy them out of this, but they are committed to the long haul.

I would just add to that the list of participants in this agreement is the most impressive list of participants in any agreement I think I have ever seen. These are groups that oftentimes are at odds with one another. This has been worked out over a number of years, and I think represents a huge win-win opportunity here where we can protect park resources, protect national forest resources, restore fisheries, enhance recreation, and save nearly 2,000 jobs in eastern Tennessee, an area that definitely is in need of those jobs.

Senator THOMAS. Yes, it sounds like a fairly complicated thing. We were just discussing, Senator, this—what is it called?

Senator ALEXANDER. Tapoco.

Senator THOMAS. We have just talked about it. If you would like to comment on it, we would be happy to have you.

STATEMENT OF HON. LAMAR ALEXANDER, U.S. SENATOR FROM TENNESSEE

Senator ALEXANDER. Thank you, Mr. Chairman. Excuse me for being late. I was involved in helping to manage a bill on the floor, and I am sorry that I was late because this is a subject in which I am extremely interested. I have talked with the chairman about it.

I have a statement, Mr. Chairman, which I would like to leave for the record, if I may.

Senator THOMAS. It will be in the record.

Senator ALEXANDER. If I may just say a word about it.

This land swap, these principles, this agreement which we are being asked to approve should be hailed as a model, I believe, of cooperation between the industry, communities, and conservation groups. This involves, as has been said, about 10,000 very precious acres. They lie between the Great Smoky Mountain National Park, which is the most visited park, 10 million visitors a year, and the Cherokee National Forest, which has another 2 million to 5 million visitors a year.

The reason Alcoa has them, of course, as I am sure has been detailed, is because they got in early, 1913 I think, and built four dams very high in the mountains. In fact, in my home town of Maryville, the mayor was run out of town for allowing Alcoa to come in there with its big aluminum smelter. But, of course, it transformed that part of Appalachia, first in terms of jobs. People in that region were making probably a third of the national average in family income. Today it is 100 percent because Alcoa's wages were wages negotiated on a national scale. People made good money there. So people were driving from all over, Mr. Chairman, to go to the Alcoa plant, as many as 14,000 people during the war.

My dad was one of those, and as I grew up with a dad working at the Alcoa plant, I also had a chance to earn an Alcoa scholarship which are given to children of employees.

The first reason that I hope that we approve this and that the license is renewed for another 40 years is jobs, good paying jobs, in the Appalachia region of America.

The second is conservation. This is an area under a lot of pressure. I and most other people who live in east Tennessee would welcome the opportunity to have 10,000 more acres to hike in and fish in and go to, particularly between the Great Smokys and the Cherokee Forest. Just over in North Carolina is the Joyce Kilmer Forest, which has some of the biggest hardwoods in the Eastern United States.

So I heard win-win, as I was coming in. It is win-win-win-win in my book: jobs, conservation, good example. And I want to congratulate those conservation groups who have worked for 7 years on this. I want to congratulate Alcoa for being unselfish about its land, and I hope, Mr. Chairman, that we can approve this Alcoa land swap. So far as I know, it has enormous, strong support in east Tennessee where I live and have grown up, and I believe it will be hailed as a model across this country once it is culminated.

Thank you for interrupting so that I could make my remarks.

[The prepared statement of Senator Alexander follows:]

PREPARED STATEMENT OF HON. LAMAR ALEXANDER,
U.S. SENATOR FROM TENNESSEE

Chairman Thomas, thank you for holding this hearing on S. 2319, which I introduced on April 19. This legislation would give Congressional approval to an agreement that will save thousands of good-paying jobs at the Aluminum Company of America (ALCOA) plants in Blount County—and at the same time provide recreational opportunities on thousands of acres of ALCOA mountain land for canoeists, hikers and fishermen. And, of importance to all of us who enjoy the outdoors in East Tennessee and North Carolina, this agreement should help to create fuller lake reservoirs during the summer recreation season.

This agreement is necessary because, since 1913, Alcoa has operated dams high on the Little Tennessee River adjacent to the Great Smoky Mountain National Park near the border of Tennessee and North Carolina. These dams were built before either the Tennessee Valley Authority or the Great Smoky Mountain National Park was created. These four dams provide half of the electric power ALCOA uses to operate its plants in the valley below the mountains in Blount County, Tennessee. ALCOA's license to operate these four dams expires next year. The company has applied to the Federal Electric Regulatory Commission for a 40-year license renewal.

ALCOA's license renewal application has created widespread interest in the Tennessee Valley for two reasons. The first reason involves the economic well-being of thousands of current and retired ALCOA workers and the communities in which they live. The second reason is that the application attracted broad attention from

conservation organizations because of the opportunity to create recreation opportunities on land ALCOA owns in the Little Tennessee River Watershed adjacent to the Great Smoky Mountains National Park. Some of this ALCOA land is actually within the legislation boundaries of the Park.

This hydroelectric relicensing is a textbook example of how a major American company can work with communities and conservation organizations to help Americans keep a high standard of living as well as to conserve the environment. Once approved, I expect it to become a model for many other companies, communities and conservation groups.

It is critically important to renew this hydroelectric license for another 40 years and keep these good jobs in the Tennessee Valley. Without these four dams providing low cost, reliable power, these jobs would be gone overnight—probably to ALCOA's plants in Quebec or Iceland where the hydroelectric power is plentiful and cheap.

A critical requirement of obtaining this 40-year license renewal is the settlement agreement negotiated by and with a large group of interested relicensing stakeholders. The stakeholders include the National Park Service, U.S. Fish and Wildlife Service, the Eastern Band of Cherokees, state agencies representing Tennessee and North Carolina, and numerous non-governmental organizations, local governments, homeowners association, and individual citizens.

Seven years ago, settlement agreement negotiations on the hydroelectric facility began. It has taken seven years to work out all the issues with all the various interested parties. However, after seven years of hard work, a settlement that preserves jobs and protects the environment has come forward.

In order to make the settlement agreement effective, Congress must authorize the land exchanges in the settlement agreement. The terms and conditions under the settlement agreement will then become terms and conditions under ALCOA's hydroelectric license. In order for FERC to have legal authority to put the settlement agreement terms and conditions in the license, legislation from Congress is required prior to FERC making a relicensing decision in August 2004.

Much of the settlement agreement is focused on the transfer of land interests between the Great Smoky Mountains National Park, the U.S. Forest Service and ALCOA.

The legislation has two main components:

The first component is the authorization of a land swap between the Great Smokies National Park and ALCOA. The Great Smokies will transfer 100 acres of submerged, flooded areas of land in exchange for 186 acres of biologically sensitive acreage that ALCOA currently owns inside the legislative boundary of the Great Smoky Mountain National Park. Once this land swap occurs, FERC can issue the new hydroelectric license.

The second component is that the legislation permits the National Park Service to purchase an additional 6,000 acres of land in the future, if the Tennessee Nature Conservancy exercises its option to purchase the land.

Here's how it works. Once FERC issues the new license, ALCOA then will grant (for free) to the Tennessee Nature Conservancy a permanent easement for 6,000 acres. Once the permanent easement is granted, the Tennessee Nature Conservancy will then make it available for hiking, fishing, and recreational activities. This 6,000 acres, currently owned by ALCOA, is nestled between the Great Smoky Mountains National Park and the Cherokee National Forest. In addition, the Tennessee Nature Conservancy will then have the *option* to purchase the 6,000 acres of permanent easement from ALCOA and in turn, the Tennessee Nature Conservancy will sell the land at fair market value less the valuation of the permanent easement to the Great Smokies or U.S. Forest Service.

The settlement agreement also provides that ALCOA will grant to the Tennessee Nature Conservancy a 40-year term easement for an additional 4,000 acres south of the Great Smoky Mountain National Park along the Calderwood Reservoir to the Tennessee-North Carolina border. This 40-year term easement will expire at the end of the hydroelectric license term and return to ALCOA free and clear. Once the term easement is granted, these 4,000 acres will then be made available for hiking, fishing and recreational activities for the length of the license.

In addition, the settlement agreement provides millions of dollars to enhance the recreational opportunities on the Tennessee River. The types of commitments included in the settlement agreement include more portage trails for canoeing, better access for hikers and fisherman to the Tennessee River, and fuller reservoirs during the summer recreation seasons.

Signatories on the settlement agreement include:

- Alcoa, Inc.

- American Rivers
- Blount County, TN
- City of Alcoa, Tennessee
- City of Maryville, Tennessee
- Eastern Band of Cherokee Indians Great Smoky Mountains National Park
- National Parks Conservation Association
- North Carolina Department of Environment and Conservation
- North Carolina Wildlife Resources Commission
- Tennessee Clean Water Network
- Tennessee Department of Environment and Conservation
- The Nature Conservancy
- U.S. Fish and Wildlife
- U.S. Forest Service

Other Supporters of the settlement agreement include:

- Blount County Chamber of Commerce and Industry
- Blount County Industrial Development Board
- TN Great Smokies National Park Commission
- TN State House of Representatives

Mr. Chairman, I strongly support this legislation and I thank you for holding this hearing today.

Senator THOMAS. Thank you for being here.

Before we call on Senator DeWine, do you have any questions for this panel?

Senator AKAKA. Yes, I do.

Senator THOMAS. Would you care to go ahead?

Are you in a timeframe thing?

Senator DEWINE. No, sir.

Senator THOMAS. We will be with you very soon then, Senator.

Senator AKAKA. Mr. Chairman, I would like to ask that the statement from Senator Graham on the Everglades National Park bill, S. 2046, be included in the record.

Senator THOMAS. it will be in the record.

[The prepared statement of Senator Graham follows:]

PREPARED STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR
FROM FLORIDA

Mr. Chairman, I want to thank you and Senator Akaka for holding today's hearing and including S. 2046, a bill I introduced with Senator Nelson to authorize a land exchange between Everglades National Park and the South Florida Water Management District.

The land exchange authorized in S. 2046 is necessary for the completion of the C-111 Canal project. The project is integral to the future of the Comprehensive Everglades Restoration Plan (CERP) and it must be constructed before we can begin work on important CERP projects.

I have reviewed the testimony that Mr. Hoffman will give today, and I understand that the Department of Interior supports the bill with some clarifying amendments. I think that these amendments are improvements to the original legislation, and I ask that the committee staff work with my staff to make the necessary changes before we take this bill to mark-up.

I also want to thank Ms. Kathy Copeland for traveling from Florida to be here today. Ms. Copeland has spent a lot of time working with me and my staff and the Department of Interior to draft S. 2046. I want to thank her for her work on this bill, and her commitment to Everglades restoration in general.

I have written testimony provided by a number of environmental organizations. I ask that this testimony be included in the record.

Thank you, Mr. Chairman.

Senator AKAKA. Mr. Hoffman, I have two questions. Is it all right to proceed?

Senator THOMAS. Yes, sir, please.

Senator AKAKA. Two questions on S. 2046, the Everglades land exchange. As I understand the bill, the purpose is to transfer just over 1,000 acres to the South Florida Water Management District to allow for the completion of the C-111 project. According to your testimony, the project would, among other things, restore park habitat. I would like to ask what else the district could do with the land it would receive in the transfer. Will it be able to use any of the land for purposes that do not benefit Everglades National Park?

Mr. HOFFMAN. Senator Akaka, the exchange provides benefits to both the South Florida Water Management District and the park, but those benefits to the South Florida Water Management District go more to preventing flooding of Miami-Dade County. Those benefits neither enhance nor hurt the park if they are conducted in a way that continues to restore the water flows through the Everglades.

Part of the C-111 project is a construction of a couple of bridges that will restore flows into the Shark and Taylor Sloughs. Basically the C-111 project predated the Comprehensive Everglades Restoration Project. This has been on the books for a long time, and the idea is to take water that can potentially flood Miami-Dade County, pump it out of the C-111 canal into holding ponds, stack the water up, which then under hydraulic pressure goes down into the aquifer. It rises back up, part out in the park, part out on the Miami-Dade side, and they just continue to pump from the Miami-Dade side back toward the park side. As that water stacks up, that hydraulic pressure begins to create flows that start to restore the ecosystem of the whole South Florida complex.

Senator AKAKA. According to your testimony, the district will transfer an equal amount of land to the park to conform to the Park Service's goal of no net loss of park lands. Are the lands that would be transferred to the Park Service important from an ecological or cultural perspective, or is the main purpose of this addition simply to ensure that the park's acreage remains unchanged?

Mr. HOFFMAN. It is an attempt to approximate equal habitat value, and the lands selected from the South Florida Water Management District were selected primarily because those lands represented the highest habitat value and most complemented the management of the park. Those lands probably are not essential to the management of the park but do enhance the management of the park.

Senator AKAKA. I am switching to S. 2319. According to Mr. Robinson's statement, if the exchange were completed by this December, it would help ensure that the Federal Energy Regulatory Commission could act on the license renewal in a timely manner. Do you see any problem with the Park Service being able to complete the exchange by the end of the year?

Mr. HOFFMAN. No, sir. I do not think that poses a problem at all.

Senator AKAKA. Mr. Hoffman, this is on S. 1092. The administration opposes S. 1092 which authorizes the Interior Department to maintain a data base of veterans and war memorials. According to your testimony, the Department is concerned that the added responsibility of maintaining a data base would take away resources from other park funding priorities. Since, according to your testi-

mony, the Park Service already maintains an inventory of over 3,700 monuments, memorials, and markers, how much do you expect it would cost to maintain a data base that includes the non-Federal memorials?

Mr. HOFFMAN. Senator Akaka, no estimates are available to address that cost because there really is no way to assess how many markers or memorials or monuments there are out there to be included in a data base. The only way to do it is to wear soles off shoes and get out and beat the street. That takes people and that takes money. You are talking about a very extensive process that is virtually impossible for us to gauge the expense of.

Senator AKAKA. Thank you very much, Mr. Chairman.

Senator THOMAS. Thank you, sir.

Thank you, gentlemen. We appreciate it.

Senator DeWine, welcome. Glad to have you here.

**STATEMENT OF HON. MIKE DeWINE, U.S. SENATOR
FROM OHIO**

Senator DeWINE. Mr. Chairman, thank you very much. Thank you for including S. 1748, the Presidential Sites Improvement Act in this afternoon's hearing.

Mr. Chairman, across this country there are a number of sites that are associated with our former Presidents. These are homes where former Presidents have been born. These are homes that are uniquely associated with the Presidents. Sometimes these are Presidential libraries. What they all have in common is that none of them are owned nor maintained by the Federal Government. They are maintained many times by local historical societies, nonprofit organizations, sometimes by State historical societies.

There are many, many of them. I have a two-page list here in front of me. I just counted through here. It looks like there are 60 or 70 different sites associated with different Presidents.

The challenge is that many of these wonderful sites are supported by organizations that do not have very much money, and so when you go to these sites, sometimes you will see that they are in great need of repair. What our bill does is it simply authorizes up to—up to—\$5 million a year to be used for the expenditure of the maintenance of these sites. It provides a mechanism by which a board would be appointed to decide how this money would be spent, and this would be done on a yearly basis. It provides for a 50 percent match from the local money that would have to be generated, along with the Federal dollars.

Let me just point out what this bill does not do, and I think it is important to set the record straight here today. This bill does not provide for the Federal Government to take over any of the ownership or the running or the maintenance of any of these sites. The Federal Government should not do that. The Federal Government has enough to do and this committee knows better than any other committee in the Congress the great burden the Federal Government already has.

I think the unique blend that we already have in this country of the Federal Government owning a few of the Presidential sites, maintaining them, but yet probably the bulk of the Presidential sites actually now being maintained locally is just a fine mix.

But what this bill does is take a relatively small amount of money and say that we are going to match that with a local initiative, locally generated money to preserve these sites and to make sure these sites will be there for our children and our grandchildren and our great grandchildren.

In Ohio we are fortunate that we have a number of these sites. A good many of them are in local hands. They are not maintained by the Federal Government at all. Unfortunately, we have had a struggle in Ohio. We have seen some of these sites that are—the great front porch campaign of Warren G. Harding. That front porch in Marion, Ohio was kind of falling down. We have had a problem getting money to repair that. And there have been other examples.

But that is what this bill does. It is a pretty simple bill, and I will just stop at this point and ask your consideration of the bill. But I just wanted to make it very clear what the bill does and what it does not do. It is a pretty simple and straightforward bill, but it does not call for the Federal Government in any way, shape, or form to take over these sites or to take over the maintenance. It is very limited, very narrow focus in what it does. But the limited amount of money that this bill would provide I can tell you from my own experience of what I have seen in Ohio would go a long, long way to preserve these sites for our kids.

I thank the chair.

Senator THOMAS. Thank you, Senator. I appreciate it very much.

Let us go on then to our second panel: Mr. Brian Rooney, president of the RVETS, Remembering Veterans who Earned Stripes; Mr. Randall Overbey, president, Primary Metals, Alcoa; Ms. Faye Phillips, associate dean, Special Collections Facilities, Louisiana State; Richard Moe, president, National Trust for Historic Preservation; Kathy Copeland, director of policy and legislation, South Florida Water Management District; and John Nau, Chairman of the Texas Historical Commission and chairman of the Advisory Council on Historic Preservation.

I thank all of you for coming. We will include your total statements in the record. So if you feel inclined to sort of capsule it in 5 minutes or less, that would make us all very happy I suspect. So, Mr. Rooney, would you like to begin?

STATEMENT OF BRIAN ROONEY, PRESIDENT, REMEMBERING VETERANS WHO EARNED THEIR STRIPES, NORTHRIDGE, CA

Mr. ROONEY. Thank you, Mr. Chairman, Senator Akaka.

My name is Brian Rooney. I am a twice disabled Vietnam veteran, the father of six children, and I teach in the Los Angeles Unified School District. I thank you for inviting me here to testify on behalf of this important legislation.

In 1970 I was an Army medic in Vietnam performing triage on a helipad. I had a couple of wounded that I helped, and there was another GI that was badly wounded and I presumed him to be dead. I did not like the idea of Americans dying in a foreign land without me calling them by their name. So when I was finished with the others, I leaned over his mortally wounded body to get his name off his dog tag. And as I leaned over, he opened his eyes, grabbed my shirt, pulled me down, and said, remember me. Then he was gone.

So for about 23 years after that, I was cursed to remember that soldier, in fact, haunted by the faces of many American dying soldiers.

In 1993 that curse slowly began to turn into a blessing. I was doing consulting for a California utility and I had occasion to try to find some veterans memorials around town. After much research, I discovered that there was no comprehensive cataloging of war memorials anywhere in America.

So over the next 9 years, I sent out about 40,000 letters to every municipality, veterans group, patriotic group in America asking them simply where the memorials were in their town. I received in return tens of thousands of faxed pages offering data on the existence and location of about 8,600 war memorials in 50 States.

As the data rolled in, however, a disturbing trend began to emerge. Way too many memorials were reported lost, vandalized, or were just given up to apathy. The thought of throwing a veterans memorial out with the trash was quite simply unacceptable. So I started RVETS, a nonprofit 501(c) organization, with the mission of monitoring veterans memorials annually and taking steps to restore or save those in jeopardy.

I had the honor in the year 2000 to help write H. Con. Res. 345 which was a sense of Congress acknowledging the work of RVETS and calling on America to honor the memory of those courageous soldiers of war who gave their lives for our freedom. The bill passed and was signed into law.

During the course of all this activity, including countless thousands of phone calls, e-mails, letters, and faxes, it dawned on me that most people are uninspired by a chunk of concrete or brass. It is the person that we erect a memorial to and it is that person that we are memorializing. Unfortunately, time seems to erode our memory. So I decided that I will tell the personal story of every individual named on every memorial in America from the Revolutionary War to the present. As you know, there is a memorial here in town that has 58,000 names on it and 58,000 stories to tell. But if someone died for our freedom, I intend to tell their story.

That soldier that died in my arms in Vietnam created a deep scar in my heart, but in the course of time, I have come to realize that he is much more than a single, nameless GI that died on the battlefield far from home. Through this legislation, that brave, young American becomes every American that ever died for freedom, whether at Concord, Gettysburg, Korea, or North Africa, on the shores of Omaha Beach or in the streets of Baghdad.

If I observed somebody defacing a Vietnam memorial, I think we might have a fight on our hands. My father landed at Normandy Beach, fought his way across Europe, and liberated a concentration camp. So again, if I saw a World War II memorial in jeopardy, I think I would be pretty upset.

But who cares for the War of 1812 memorial or the Spanish American war memorial? They are so far removed from our conscious thought. Who then will champion the cause of those Americans who bled and died on the battlefield of freedom? Who will take up the fight to preserve those national treasures, and more importantly, who will tell the story of their courage and sacrifice for us?

With a national archive, housed in the U.S. Park Service website, Americans will for the first time have access to the location, the condition, and information of every memorial in America, as well as a treasure-trove of incredible stories of patriotism at its grandest heights.

In a sense, every American who died in war from the Revolutionary War to the present war on terrorism is reaching up now to you, grasping your shirt, and pleading, remember me.

By enacting S. 1092, you would not only preserve and honor the memory of members of our armed forces, but you would also contribute to the education of our children, to chronicle our great American history, to promote a sense of patriotism, to facilitate genealogical research, and to benefit the preservation efforts.

I would be glad to answer any questions. Thank you very much, sir.

[The prepared statement of Mr. Rooney follows:]

PREPARED STATEMENT OF BRIAN ROONEY, PRESIDENT, REMEMBERING VETERANS
WHO EARNED THEIR STRIPES, NORTHRIDGE, CA

Mr. Chairman, Senator Akaka, Committee members, my name is Brian Rooney, I am a twice disabled Vietnam veteran, the father of six children, and a teacher in the Los Angeles Unified School District. Thank you very much for inviting me to testify today on behalf of this important legislation.

In 1970 I was an Army medic in Vietnam performing triage on a helipad. I had treated a couple of wounded, but there was one GI who was badly wounded and I presumed him to be dead. I didn't like the idea of Americans dying in a far away land without me calling them by their name, so after taking care of the others, I leaned over his mortally wounded body to get his name off his dog tag. As I leaned over him he opened his eyes, grabbed my shirt, pulled me down close to him, and said "Remember me . . ." And then he was gone.

For more than twenty three years those words were a curse to me because I did in fact remember that soldier's face, as well as the faces of many other dying Americans. Then in 1993 that curse slowly began to turn into a blessing.

While doing consulting for a California utility I had the occasion to try to locate some veterans memorials around town. After a great deal of research I learned that there did not exist in America any comprehensive archive of war memorials.

So over the following nine years I sent out more than 40,000 letters to every municipality, veterans group, and patriotic group in America asking them where the memorials were in their town. I received in return tens of thousands of faxed pages offering data on the existence and location of about 8,600 veterans memorials in the fifty states.

As the data rolled in however, a disturbing trend began to emerge. Way too many of the responses spoke of an old memorial that was moved or vandalized, or simply lost to apathy. The thought of throwing a veterans memorial out with the trash was quite simply unacceptable, so I created RVETS, a non-profit 501-C organization with the mission of monitoring veterans memorials annually and taking steps to restore or save any memorials that might be in jeopardy.

I had the honor in the year 2000 to help write HR345 which was a sense of Congress acknowledging the work of RVETS and called on America to honor the memory of those courageous soldiers of war who gave their lives for our freedom. The bill passed and was signed into Public Law 106-511 title 3. (attached)*

During the course this activity, including countless thousands of phone conversations, emails, letters, and faxes, it dawned on me that most people are uninspired by lifeless chunks of concrete or brass. It's the person that we erect a memorial for and its the person that we are memorializing. Unfortunately time seems to erode our memory. So I decided that I will tell the personal story, of every individual named on every memorial in America. As you know there is one memorial here in town that has 58,000 names on it and 58,000 stories to tell. But if someone died for our Freedom I intend to tell their story.

That soldier that died in my arms in Vietnam created a deep scar in my heart, but in the course of time I have come to realize that he is much more than a single,

*All attachments have been retained in subcommittee files.

nameless GI that died on a battlefield far from home. Through this work and legislation, that brave young American becomes every American that ever died for freedom, whether it was at Concord, or Gettysburg, Korea or North Africa, on the shores of Omaha beach or the streets of Baghdad.

Several years ago I realized that if I observed someone defacing a Vietnam memorial, we would have a fight on our hands. My father fought in WWII landed at Normandy Beach, fought his way across Europe, and liberated a concentration camp. So again if I saw a WWII memorial being vandalized or neglected I would be pretty upset. But who cares about the War of 1812 memorial, or the Spanish American War Memorial, they're too far removed from our conscious thoughts. Who then will champion the cause of those Americans who bled and died on the battlefield of freedom. Who will take up the fight to preserve those national treasures, and more importantly, who will tell the stories of their courage and sacrifice for us.

We are the posterity that they were talking about.

With a national archive housed on the US Park Service website Americans will for the first time have access to the location, condition, and information of every memorial in the country, as well as a treasure-trove of incredible stories of patriotism at its grandest heights.

In a sense every dying American soldier from the Revolutionary War to this present War on Terrorism is reaching up now to you, grasping your shirt, and pleading, Remember Me

Then he was gone.

TRIBUTES TO PATRIOTISM

Courageous men and women have fought and died for this great country from before the signing of the Declaration of Independence to today's War on Terrorism. We are approaching close to one million Americans who have given their lives to preserve our freedom. To commemorate their sacrifice states, counties, cities and towns across America have erected tributes to the heroism of these patriots of freedom. While those memorials were intended to be permanent, many are lost every year. Some are lost to neglect, others to vandalism, some to redevelopment, and some to apathy. RVETS has worked for more than ten years with the goal of first cataloging the tributes, then monitoring the condition of memorials, and ultimately to tell the story of each and every hero represented on the tributes.

The risk of losing these memorials is real. We have received letters and faxes from virtually every state telling stories of memorials lost.

The process of collecting information about our nation's tributes to our patriots began with a vision—a vision that never again will a memorial or permanent tribute be lost or forgotten. The work done by RVETS since 1994 is but one step toward a larger effort that will enable the public to obtain information about any memorial. It will aid historians in their research about specific conflicts as well as helping families seek information about their ancestors. It will rekindle a sense of patriotism and encourage every American to reaffirm their appreciation of our heritage.

As one staff member at the Library of Congress said of the project, "Your work will change for the better the way Americans view their country over the next fifty years."

EDUCATION

I teach in the Los Angeles Unified School District and I am always appalled at the people that our children choose to be their heroes and role models. One facet of this legislation is that every school in America will have access to the incredible stories of courage and bravery demonstrated by the heroes of liberty from their own home town. So that History teacher when teaching on say WWII can include the story of an American hero that may have gone to that very school, and their name may be found on the memorial right up the street.

History comes alive when you can bring it home to where the students live. In Ohio an eagle scout discovered in the 1990's that four soldiers from their town died in WWI, and that they all lived on the same street. That young eagle scout spear-headed an effort to build a memorial on that street to those brave Americans who gave their lives for their country more than 50 years before he was even born.

How many children will discover their great and noble heritage on this website in future generations.

ROLE MODELS

Desmond Doss was a medic with a Ranger unit in WWII. They had scaled a cliff and engaged the enemy on the plateau above. But they underestimated the strength of the enemy and were utterly decimated in the ensuing battle causing them to re-

treat. Desmond Doss however, returned to the open ground amidst automatic fire and mortar rounds to retrieve a wounded GI. Desmond carried the soldier to the cliff, tied a rope around him, and lowered him to safety below. This was a courageous act and worthy of a medal, but Desmond was uninterested in medals at the time, because he returned a second time exposing himself to enemy fire to carry another GI to safety. This second act of bravery might have earned him the Congressional Medal of Honor, but again Desmond's focus was on doing his job which was saving lives. *Well this great American hero that most Americans have never even heard of returned alone to that battlefield 72 times!!!!* Carrying 72 American wounded back to the cliff, tying a rope around 72 GIs, lowering 72 of them to safety below.

Henry Johnson was an African American in the New York National Guard during the first World War. His unit trained with broomsticks on the streets of New York City. They were reluctantly sent to the war in Europe, but were given non-combat duties. The French army needed reinforcements and this black unit was the only one available. Henry Johnson and his buddy Nedham Roberts were in a forward observation post when they were overrun by about thirty German soldiers. They were shot, gassed, and grenaded leaving Henry wounded 21 times and unconscious. The German troop carried Nedham Roberts off as a prisoner. When Henry came to he saw his friend being taken prisoner, so despite his 21 wounds, including a shattered leg, he pursued the troop and overtook them. Henry then single-handedly engaged the force firing his rifle at four of the enemy, using his bayonet on several more, and finally pulling out his bolo knife and slashing his way through the German troop toward his friend. After killing or wounding as many as 15 of the enemy, the rest of the German troops wisely decided to run leaving Henry with his buddy Nedham Roberts. This was certainly an incredible act, but even more incredible is the fact that these two terribly wounded American soldiers did not seek medical attention, but in fact returned to their post and finished out the remaining six hours of guard duty. Henry Johnson's memorial is in Albany, New York.

We've seen in movies a soldier dive onto a hand grenade sacrificing his life to save his buddies. Well in the real world it seems that a person would have to think hard for a while to decide whether he should die for his friends or not. Yet that instantaneous decision to give ones life for his friends has happened literally hundreds of times in the archives of American history.

HISTORY LOST

In Ione, California there was a WWI Honor Roll, this is a memorial that lists the names of Americans that gave their lives for our country. RVETS had heard that this memorial existed and tried to catalogue it. To our surprise we were told that sometime in the 1950's the city hall, where the eight by four foot plaque hung, was torn down and the plaque moved up the street. A few years after that it was put in the mayor's garage, and ultimately lost. So that tribute to those brave Americans who willingly went off to war to fight for freedom's cause, was shuffled around like a piece of rag eventually to be cast off to the trash heap.

An RVETS associate was at a demolition site of a Texaco plant. He noticed in the rubble a brass plaque, so he walked over to it and picked it up. To his shock it read in part, ". . . to the memory of our Texaco workers who gave their lives for our freedom . . ." It seems that the memory of a life sacrificed was short lived. Thankfully that tribute was redeemed from the junk pile and now hangs in a place of honor at Patriotic Hall in Los Angeles, California.

There are hundreds of such stories of memorials lost. According to recent VA statistics we are also losing veterans at a rate of 1800 a day. These veterans are taking with them the stories that our children can benefit from, there is a great sense of urgency.

GENEALOGY

Americans will be able to go to the US Park Service website and input their family surname and instantly see where in the United States their ancestors' names appear on a veterans memorial, as well as their story.

A family in California contacted RVETS asking for the location of a memorial somewhere in the South Pacific. All they had was a photograph of the father of a sailor killed in the Pacific standing next to a memorial with the son's name on it, the picture was taken in the early 1950's. I located the memorial and 48 members of the family took a pilgrimage to the site, to pay homage and tell the children and grandchildren about the uncle that they never knew. (Story included in L.A. Times article).

RVETS has received numerous inquiries from people seeking long lost relatives and friends who were separated by wars.

VETERANS AND COMMUNITY ORGANIZATIONS' EFFORTS

In 1994 in an effort to assist in the upkeep of veterans memorials in California, I discovered that there was no statewide directory of memorials. I then attempted to find California's veterans memorials in a national directory. None existed. I decide that there should be a comprehensive and complete list of the permanent tributes throughout this country that have been dedicated to the men and women who made the ultimate sacrifice and paid the ultimate price for their country.

Since then, I have worked to build a complete, comprehensive list of every tribute to armed conflict in the United States. I have sent out more than 40,000 letters to veterans organizations and municipalities throughout the United States. I have sent a letter of inquiry to every State, city, village, borough, parish, hamlet, town—anyone who may have knowledge of where a memorial might be in any of the fifty states. The responses I received range from detailed descriptions of memorials, including the names and histories of those honored, to a simple, "Yes, we have one in town". To date, I have catalogued more than 8,600 permanent tributes honoring military conflicts and those who have served our nation in 50 states.

During this time, I founded RVETS (Remembering Veterans who Earned Their Stripes), a non-profit 501(c) organization dedicated to creating a national directory of veterans memorials in America and monitoring the condition of the tributes annually. To the best of my knowledge, this directory is the only one of its kind in the United States.

Over the years I have approached and worked with many other veterans and community organizations on this project. I have included with my testimony examples of support I have received from organizations like the Veterans of Foreign Wars, the American Legion, the Minority Officers Assn., and the Boy Scouts of America. While RVETS has maintained the lead role in identifying, researching, cataloging, and monitoring the nation's tributes to our Armed Forces, we recognize the important role that federal assistance would play.

Since 1994, RVETS has been at the forefront of this effort. We believe that locating, cataloging, and monitoring permanent tributes, as well as telling the stories of American heroes, will provide enormous benefits not only to the 30 million veterans throughout the country, but to our young people who can learn about our rich heritage, to our senior citizens who remember the sacrifices that they and their neighbors made during WWII and the Korean War. And to my generation, the Vietnam Veteran, who served proudly and with distinction along with the veterans of other conflicts.

FEDERAL ASSISTANCE WOULD BE A GREAT BENEFIT

To address the risk of losing more memorials, former Congressman Jim Rogan introduced HconRes345 on June 6, 2000. The resolution expressed the sense of Congress regarding the need for cataloging and maintaining public memorials commemorating military conflicts of the United States and the service of individuals in the Armed Forces.

On July 26, 2000 the Committee on Resources met to consider the bill. No amendments were offered and the bill was ordered, favorably reported to the House of Representatives by unanimous consent.

On September 19, 2000 the House of Representatives passed the resolution by voice vote on the Suspension Calendar. During its consideration, Chairman Jim Hansen stated, "Thousands of public memorials dealing with the United States' involvement in military conflicts exist throughout the world. However, there is no index or record as to their location nor is there a catalogued assessment as to their condition. Unfortunately, many of these memorials suffer from neglect, disrepair, or have been relocated or stored in facilities where they are not accessible to the public."

Rather than independent consideration by the Senate, the Resolution was included in Senate Majority Leader Tom Daschle's S. 964, the Cheyenne River Sioux Tribe Equitable Compensation Act which became Public Law 106-511.

Under current law, several branches of the federal government monitor and maintain federally funded memorials to the service of our armed forces. For example, the Department of the Interior is responsible for about 27 federally funded war memorials. But the Department does not keep track of non-federally funded tributes. However the same resources currently deployed to catalog federal memorials could be used to catalog non-federally funded memorials. Additionally, the Department of Veterans Affairs is responsible for cataloging, monitoring, and maintaining memorials within the 120 National Cemeteries throughout the country. Yet it does not keep track of non-federally funded tributes, nor the tributes outside of their cemeteries.

S. 1092, if enacted into law, would coordinate these disparate efforts in one program and collect all of the information in one location so it is easy for the public to access. The responsible federal agency would work with community groups and other federal agencies to collect data on the nation's tributes to service in the Armed Forces. The data would be collected, verified, and made available on the Internet so veterans', students, and anyone else interested could access it at their convenience.

BENEFITS OF S. 1092

The benefits of S. 1092 to the nation are many and far reaching. It will:

1. Honor the Armed Forces: By creating a comprehensive catalogue of tributes to Patriotism. S. 1092 will demonstrate to America's Armed Forces and veterans that their sacrifices are appreciated and remembered.

2. Help to Educate America's Children: High school students are now studying U. S. history without the benefit of knowing those courageous heroes of freedom in their own town. Maybe from the very school that they are attending. The students and their teachers will have access to the stories of courage and honor from names on their home town memorials. Classes may take learning walks to the memorials in town and teachers could bring history to life by relating the stories that S. 1092 will provide. RVETS has already received inquiries from high schools who assign students to research the biographies of the names on the memorials in their town. This creates a sense of community as well as a heightened sense of patriotism.

RVETS has received a series of correspondence from the University of Pisa, Italy who's students were doing Masters dissertations on United States wars And were seeking information on specific battle monuments.

3. Aid in Chronicling Our History: S. 1092 will provide a framework that will promote cooperation between public and private efforts. RVETS has established a working relationship with the Library of Congress to share information. The LOC is currently conducting a program of video interviews with World War I and II veterans to create a video history of the World Wars. We feel a sense of urgency because our veterans of war are now dying at a rate of more than one thousand a day. Their stories of courage, commitment, and of patriotism are dying with them.

4. Promote Patriotism: S. 1092 will increase awareness in our youth to the sacrifices that have been made for the liberties that we all enjoy. This will be accomplished in a proactive manner by distributing to every school district a copy of the stories of their local home town heroes of war. This information can be used in history and government classes. RVETS has already begun to perform this service, and it has worked successfully in concert with the "Veterans in the Classroom" program.

5. Facilities Genealogical Research: S. 1092 will help families to teach their younger members about their unique history. RVETS intends to record every name on every memorial in America and include that information in the database. That number will be enormous, but the benefits will be equally significant. People will be able to input their family surname or ancestor and immediately find the locations of every tribute in America that bears that name. Much like the family who made the pilgrimage to Hawaii, the database can also satisfy families' needs for resolution and closure for their lost loved ones.

6. Benefit Preservation Efforts: S. 1092 intentionally does not authorize the federal government to maintain America's memorials. However, without a comprehensive directory of memorials, Americans have no way of knowing if one is in jeopardy.

RVETS has received numerous reports of neglected memorials. We simply call the local veterans and patriotic groups who in turn take care of the site themselves.

Additionally, the memorials will include a photograph, whether in pristine condition or neglected. Most cities would prefer to be represented by a well kept memorial.

Senator THOMAS. Thank you. Congratulations on your effort and your work.

Mr. Moe.

STATEMENT OF RICHARD MOE, PRESIDENT, THE NATIONAL TRUST FOR HISTORIC PRESERVATION

Mr. MOE. Thank you, Mr. Chairman, Senator Akaka, for the opportunity to appear before you today. Mr. Chairman, let me thank you especially for your support of historic preservation in our parks

and beyond. You have been an inspiring leader for us in many ways.

I will be very brief because Senator DeWine really made a very effective case for this bill that he has introduced, but I want to say just a few words.

I am the president of the National Trust for Historic Preservation, and the stewardship of the country's most historic places such as Presidential sites goes to the very heart of the National Trust's 1949 congressional charter. It is a private, nonprofit membership organization dedicated to protecting the irreplaceable.

This mission includes Presidential sites across the country, three of which we operate as part of our inventory of National Trust historic sites. These include Virginia's Montpelier, the home of James Madison; the Woodrow Wilson House where in Washington, DC; and President Lincoln's summer cottage at the Soldiers' Home, also in Washington.

All too often in our efforts to protect important places chronic underfunding that leads to deferred maintenance deprives the Nation of its most important patrimony, which is its heritage. Whether postponed maintenance results in the loss of historic fabric or prevents important artifacts and exhibits from reaching the public, good preservation and proper interpretation are integral to our responsibility for the stewardship of cultural resources. Arguably nowhere is this more important than caring for America's Presidential legacy from the iconic homes of our greatest leaders to some of the humble places in which they were born. Senator DeWine, along with Senators Durbin and Voinovich, understand this responsibility, and their bill would target these sites in particular with small matching grants to address urgent maintenance needs, modernization, and accessibility requirements, and interpretive improvements for the greater public appreciation of each location.

More importantly, the bill would direct a relatively modest amount of funding to the places that need it the most, and through a matching requirement help invigorate efforts to raise private dollars that are essential to meeting the needs of the most important historic sites. Awards made available under S. 1748 would not go to federally owned Presidential sites, nor would they be used for operating purposes. Project-based funds would only be available to locations where the need is often the greatest, those that are run by often financially struggling State and local governments, private groups, local historic preservation organizations, schools, and foundations. The American Association for State and Local History documents 133 Presidential historic sites nationwide, with only 45 of those run by the National Park Service and the Federal Government. So about two-thirds of the inventory falls into the categories covered by the bill, including 23 Presidential sites that are State-run. Most of this inventory is pretty modest, and just staying open is often a challenge for many of them.

Senator DeWine's bill is more important now than ever. Funding for historic preservation, especially at the State and local level, has been cut to the bare bones, and this coincides with an equally tough climate for foundation-giving and Federal dollars that would augment the cost of maintaining and operating an historic site. Let me just give you one example that reflects the condition affecting

many historic sites, particularly those 23 sites that are operated by States.

The National Trust survey of State historic funding shows that from fiscal year 2001 to 2002, the Ohio Historical Society's budget has been cut 17 percent by almost \$2.5 million. During the same period, annual appropriations for the Ohio Historic Preservation Office were reduced by 20 percent, nearly \$86,000. There are three State-run Presidential sites in Ohio that are affected by this.

Let me just correct several impressions that I think were left by Secretary Hoffman, if I may. He said that there is plenty of opportunity for fund-raising in the private sector from foundations and other sources for these sites. That is increasingly difficult, as you know, given the economic downturn and the reduced portfolio of many of these foundations. It is much more difficult than ever before to access these kinds of funds.

I also want to correct the impression that Senator DeWine also addressed. This bill does not ask the National Park Service to take over the management of these sites. The only thing that the bill asks is that the Park Service administer a very small grant program, and the National Park Service today already administers a number of grant programs. So this would not be too great a burden administratively.

Finally, he said that this would be too large an obligation for the National Park Service to take on. Well, this is \$5 million for some of our most important historic sites, and I think the small grants provided here can make the difference between survival and prosperity.

Now, why should Presidential sites be treated differently? Well, I think for a very basic reason. We do not have royalty in this country. We do not have castles. These Presidential sites really represent the most important part I think of our political history at least and also our cultural history. These places tell important stories.

So, Mr. Chairman, I thank you for the opportunity, and I strongly urge your consideration of this bill.

[The prepared statement of Mr. Moe follows:]

PREPARED STATEMENT OF RICHARD MOE, PRESIDENT, THE NATIONAL TRUST FOR
HISTORIC PRESERVATION

Thank you, Chairman Thomas, and members of the Subcommittee for the opportunity to bring you today the views of the National Trust for Historic Preservation in support of S. 1748, "the Presidential Sites Improvement Act." Let me begin by acknowledging the Chairman's long record of support for historic preservation. I look forward to continuing our close working relationship on issues of mutual concern. Your commitment to the important issues facing our heritage is evinced by raising the Presidential Sites Bill to the Subcommittee's agenda. The stewardship of the country's major historic places such as these goes to the very heart of the National Trust's 1949 Congressional charter.

The National Trust is a private, nonprofit membership organization dedicated to protecting the irreplaceable. This mission includes Presidential sites across the country, three of which we operate as part of our inventory of the "National Trust Historic Sites." Those include Virginia's Montpelier, the home of James Madison that is currently undergoing a massive restoration; the Woodrow Wilson House in Washington, DC; and President Lincoln's summer cottage at the "Soldiers' Home" also in this city. As recipient of the Humanities Medal, the Trust provides leadership, education, and advocacy to save America's diverse historic places and revitalize communities. Its staff headquartered in this city, six regional offices, and 25

Historic Sites work with the Trust's 200,000 members and thousands of local community groups in all 50 states.

All too often in our efforts to protect the irreplaceable, chronic under-funding that leads to deferred maintenance deprives the nation of its most basic patrimony—our heritage. Whether postponed maintenance results in the loss of historic fabric or prevents important artifacts and exhibits from reaching the public, good preservation and proper interpretation are integral to our responsibility for the stewardship of cultural resources. Arguably, nowhere is this more important than caring for America's Presidential legacy from the iconic homes of our greatest leaders to some of the humble places in which they were born. Senator DeWine along with Senators Durbin and Voinovich understand this responsibility, and their bill would target these sites in particular with matching grants to address urgent maintenance needs, modernization and accessibility requirements, and interpretive improvements for greater public appreciation of each location.

More importantly, the bill would direct a relatively modest amount of funding to the places that need it most and—through a matching requirement—help invigorate efforts to raise the private dollars that are essential to meeting the needs of most historic sites. Awards made available under S. 1748 would not go to federally owned Presidential sites nor would they be used for operating costs. Project-based funds would only be available to locations where the need is often greatest—those that are run by often financially struggling state and local governments, private groups, local historic preservation organizations, schools, and foundations. The American Association for State and Local History documents 133 Presidential historic sites nationwide with only 45 run by the Federal government. So, about two-thirds of the inventory falls into the categories covered by the bill including 23 Presidential sites that are state-run. Most of this inventory is pretty modest and just staying open is often a major achievement for many sites.

Moreover, the bill would place added emphasis on the smaller, lesser-known, Presidential site by reserving 65 percent of available funds for locations that have a three-year annual operating budget averaging under \$700,000. It is easy to assume—simply by virtue of being part of our Presidential heritage—that a related site is well-funded and adequately endowed. This is not necessarily the case, particularly among the places that this bill would emphasize—those that are immensely important to telling the complete story of a chief executive's historical role, but not traditionally associated with the prominence of Mount Vernon or Monticello. These include law offices, retreats, birthplaces, burial sites, memorials, and tombs.

Senator DeWine's bill is important now more than ever as two significant national trends converge. First, funding for historic preservation, especially at the state and local level, has been cut to its bare-bones. This coincides with an equally tough climate for foundation giving and federal dollars that would augment the cost of maintaining and operating an historic site. It is important to note that most of the Presidential sites covered by S. 1748 meet their annual operating budgets through admission fees typically ranging between \$5 to \$7, donations, memberships, and fundraisers.

Second, more and more Americans are choosing domestic travel destinations oriented toward historic and cultural themes. The proliferation of National Heritage Area designations and requests under your purview is evidence of this trend. If a Presidential site—especially the smaller, lesser-known location that this bill would recognize—is unable to provide the public with compelling exhibits; proper access, safety, and comfort; and intact, adequately maintained historic fabric, then it risks being bypassed by this trend and further compromised.

Let me provide you with a few examples that reflect the conditions affecting many historic sites, especially those 23 Presidential sites that are state-owned. The National Trust's survey of state historic preservation funding shows that from FY'01 to FY'02 the Ohio Historical Society's budget has been cut by \$2.4 million (17 percent). During the same period, annual appropriations for the Ohio Historic Preservation Office were reduced by nearly \$86,000 (20 percent). There are three state-run Presidential sites in Ohio, Ulysses Grant's birthplace and boyhood homes, and the Warren Harding home.

In Vermont, the budget for state sites was cut by 2 percent this year while visitation has been down, resulting in a \$90,000 shortfall. Its two state-run Presidential sites honoring Arthur and Coolidge will invariably feel the effects. In Virginia, home to Washington Mill State Park where the first President operated Mount Vernon's milling operations, state funding for the Department of Historic Resources was reduced by about 24 percent over the past two years. As a result agency staffing has been pared down and funding for state historic preservation grants was eliminated for FY'04. And in North Carolina, where the state maintains the Polk Memorial in

Pineville, the North Carolina State Historic Preservation Office has suffered a loss of \$252,000 federal dollars and \$118,000 in state funds totaling \$370,000.

Juxtapose the declining resources at every level with the increasing and very specialized needs of many Presidential sites. Books, documents, furniture, and artifacts all require special care because of their age and significance, and all work must be done with a detailed eye to historical accuracy. This is often costly. Some exhibits at the home of Rutherford B. Hayes, which opened to the public in 1916, have not been updated in 35 years. The private foundation that runs the site has a noteworthy collection of Presidential memorabilia that should be displayed, but it lacks the \$300,000 to \$400,000 needed to construct a new exhibit. The former mansion of James A. Garfield used to be open to the public every weekday all year long. Now, it is accessible only on weekends or by appointment Monday through Friday.

The Benjamin Harrison house in Indianapolis has more urgent requirements. Its sole bathroom and outdated plumbing cannot accommodate the hundreds of schoolchildren that its director desperately wants to come see the home. It lacks the \$150,000 for making these renovations and the added money required for rehiring its librarian and displaying Harrison's books that are currently in storage. In addition, the ongoing need to conserve items can hit budgets hard. The James K. Polk ancestral home in Tennessee recently had to spend nearly \$8,000 to preserve garments worn by his First Lady. Lastly, many Presidential sites are not handicapped accessible. The Warren G. Harding home has had to defer plans for an educational facility and staff office space until it is ADA compliant. Such situations are common across the country.

Even though the \$5 million authorized by the bill will not solve the problem of caring for these national treasures, it is the beginning of a solution—with historic sites a little goes a long way. The National Trust believes that preserving the legacy of America's chief executives—especially through the smaller, lesser known places that are not federally owned—is a top priority. Given the examples I have included in my statement and the countless others around the country, there is clearly an unmet need that must be addressed. There are significant costs associated with operating and maintaining Presidential sites and opening them up to the public often leaves little else for repair and renovation. The result can lead to deferred maintenance, loss of essential historic elements, and stagnant exhibits that compromise the vitality essential to a well-run historic place. With S. 1748, we can begin to address this problem and plan for passing on our Presidential heritage—every part of it—to future generations.

Senator THOMAS. Thank you.

You know, activity on the floor sometimes interferes with things we really ought to be doing. I am going to have to scoot over and take a vote, if you do not mind. I should be back in 5 or 6 minutes and we will finish up. So we will be in recess.

[Recess.]

Senator THOMAS. Thank you for your patience. As I said, this voting kind of mixes us up from time to time.

Mr. Overbey.

STATEMENT OF RANDALL M. OVERBEY, PRESIDENT, PRIMARY METALS DEVELOPMENT FOR ALCOA, KNOXVILLE, TN

Mr. OVERBEY. I am Randy Overbey. I am president of Alcoa Primary Metals Development. In my former role with the company, I was also president of Alcoa Power Generating, Inc. That has been referenced here. In any case, all that is Alcoa.

It is my privilege to testify today about S. 2319, the Tapoco Project Licensing Act of 2004. This was introduced by Senator Alexander, as you know. And both on the floor and today, he has described the long history and deep investment in east Tennessee, and this bill is critical to our company's future in east Tennessee, as well as being critical to millions of visitors who enjoy the Great Smoky Mountains in east Tennessee and western North Carolina.

Specifically this bill does clear up a technical barrier to the licensing of the Tapoco hydro project. Maybe just a bit of background

on that. On February 21 of last year, Alcoa filed an application with FERC for relicensing the project. Soon we expect to file also this comprehensive settlement agreement that has been negotiated by and with a large number of interested licensing stakeholders that has been referenced before. The settlement agreement is intended, Mr. Chairman, to serve as a consensus basis for the new license. Included in this agreement is a requirement for Federal legislation that cures this legal defect in the original project license. If not remedied, it will prevent FERC from relicensing the project. S. 2319 resolves that issue and allows the implementation of the settlement agreement.

In addition to the many ecological improvements, relicensing the Tapoco Project will allow Alcoa to continue to generate reliable, low cost power for its Tennessee operations, which includes an aluminum smelter and a rolling mill and has nearly \$400 million of annual economic impact in the greater Knoxville area.

Originally licensed in 1955, the Tapoco Project is along the border of east Tennessee and western North Carolina. The 8,000 acres contained within the project boundary are sandwiched between about 10,000 acres of non-project land owned by Alcoa, the Great Smoky Mountains National Park, the Cherokee National Forest, the Nantahala National Forest, the Citico Creek property, and the Joyce Kilmer Wilderness Areas.

Having been licensed almost 50 years ago, the current license does expire next year, as you heard. Accordingly, starting 7 years ago, we convened an extensive process involving a wide range of stakeholders, including the Park Service, U.S. Fish and Wildlife, the U.S. Forest Service, the Eastern Band of Cherokee Indians, State agencies from Tennessee and North Carolina, national local NGO groups, local governments, homeowners associations, and many individual citizens.

A significant element of the settlement agreement that has attracted widespread interest concerns the conveyance of interests in valuable Alcoa lands that are between the park and the U.S. forest. Specifically as part of the settlement, Alcoa will grant a permanent easement to the Nature Conservancy on almost 6,000 acres of this land, as well as an option for the Nature Conservancy to buy the balance of the interest in that land and, in turn, they would sell the land to the park, perhaps to the forest, or the State of Tennessee, at such time that funds were available for that transfer. These lands would be managed as Federal parks, forests, or as State wildlife areas, and could be enjoyed by recreationists and outdoor enthusiasts of all types.

The agreement also provides that we will grant the Nature Conservancy a conservation easement for 40 years on almost 4,000 additional acres, 40 years matching the period of the new license.

With that background, I would like to turn now to the FERC jurisdictional issue that we have been discussing and the reason for this act. FERC does lack the authority under the Federal Power Act to relicense the Tapoco Project as presently configured due to this technical problem. Specifically a portion of the Chilhowee Reservoir floods four incoming stream embayments, making up approximately 100 acres of land within the national park. The Federal Power Act and the Great Smoky Mountains National Park leg-

isolation of 1926 each prohibit the licensing of hydro projects inside the park.

Under terms of S. 2319, the Secretary of the Interior would be directed to exchange approximately 100 acres of land located within the park and currently within the boundary of the Tapoco Project as well for 186 acres of ecologically valuable Alcoa land. This will solve the issue of preventing FERC from issuing the new hydroelectric license.

It is very important to Alcoa and to the many signatories to the settlement agreement that this legislation be enacted by Congress before FERC is due to make a relicensing decision on the Tapoco Project. There are indications that FERC could act as soon as even August of this year, but certainly as you heard from FERC, they would like to have this done by the end of the year so that they can have early next year to complete the licensing process.

If that is not done, it is likely they will issue an annual license, in which case the settlement agreement terms would not become effective as part of that annual license. So the good things we have talked about in the settlement agreement would largely be put on hold.

So thank you for allowing me to speak about this important bill. Alcoa is also grateful to Senator Alexander for his leadership on the legislation and for the subcommittee's quick action in holding this hearing. Thank you.

[The prepared statement of Mr. Overbey follows:]

PREPARED STATEMENT OF RANDALL M. OVERBEY, PRESIDENT, PRIMARY METALS
DEVELOPMENT FOR ALCOA

Chairman Thomas, Members of the Subcommittee, my name is Randy Overbey, and I am President of Primary Metals Development for Alcoa. Previous to this role, my position included being President of Alcoa Power Generating Inc, a subsidiary of Alcoa Inc. It is my privilege to be here today to testify about S. 2319, the "Tapoco Project Licensing Act of 2004", a bill introduced in the Senate on April 20th by Senator Alexander, my Senator from the great State of Tennessee. As Sen. Alexander so eloquently described in his floor statement, Alcoa has a long history and a deep investment in the east Tennessee region, and this bill is critical to our company's future there, as well as to the millions of Americans that enjoy the Smoky Mountains in east Tennessee and western North Carolina.

Specifically, this bill clears up a technical barrier to the relicensing of the Tapoco Project, an APGI-owned and operated hydroelectric project located in the States of Tennessee and North Carolina that is federally-licensed pursuant to the Federal Power Act, 16 U.S.C. § 791 *et seq.* On February 21, 2003, APGI filed an application for a new Project license with the Federal Energy Regulatory Commission (FERC). APGI soon will also file with FERC a comprehensive Settlement Agreement negotiated by, and with, a large group of interested relicensing stakeholders. The Settlement Agreement is intended to serve as the consensus basis for the new FERC license. Included in the Agreement is a requirement for federal legislation that cures a legal defect in the original project license that, if not remedied, will prevent FERC from relicensing the Tapoco Project. S. 2319 resolves that issue and allows the implementation of other important elements of the Settlement Agreement. Among other things, relicensing the Tapoco Project will allow APGI to continue to generate economical, readily-available energy for Alcoa's Tennessee Operations, which includes an aluminum smelter and a rolling mill, and has a nearly \$400 million economic impact on the greater Knoxville, Tennessee region.

Originally licensed in 1955, the Tapoco Project can be found in the western portion of the Little Tennessee Watershed on the Little Tennessee and Cheoah Rivers. The more than 8000 acres contained within the Tapoco Project boundary are sandwiched between nearly 10,000 acres of non-project lands owned by Alcoa, the Great Smoky Mountains National Park, the Cherokee National Forest, the Nantahala National Forest, and the Citico Creek and Joyce Kilmer Slickrock Wilderness Areas.

Almost seven years ago APGI set out to obtain a new license for the Tapoco Project through FERC's new alternative relicensing procedures. Accordingly, APGI convened an extensive process involving a wide range of stakeholders, including the National Park Service, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Eastern Band of Cherokee Indians, state agencies representing Tennessee and North Carolina, and numerous national and local non-governmental organizations, local governments, homeowners associations, and individual citizens.

The alternative licensing process proved to be fruitful as it produced a Settlement Agreement reflecting a consensus of nearly all parties to the relicensing concerning extensive protection, mitigation and enhancement measures for the Project that address ecological resources, as well as other beneficial uses of the Cheoah and Little Tennessee Rivers, including hydropower generation, watershed protection, endangered species enhancement, fish passage and enhanced recreational opportunities. The Settlement Agreement comprehensively addresses the terms and conditions that should be a part of any new license issued by FERC.

A significant element of the Settlement Agreement that has attracted widespread interest concerns the conveyance of interests in the pristine and biologically valuable Alcoa lands that are between the Park and the U.S. forests. Specifically, as part of the Settlement Agreement, Alcoa will grant a permanent easement to The Nature Conservancy (TNC) on almost 6000 acres of its land, as well as an option for the TNC to buy the balance of interests in that land at a price reflecting the encumbrance of the easement. If the TNC exercises that option, it will then have a period of time to sell (and it intends to sell) the land to the federal government or the State of Tennessee for its purchase price plus carrying costs. These lands would be managed as federal parks, forests, or as State wildlife areas, and could be enjoyed by recreationists and outdoor enthusiasts of all types. The Agreement also provides that Alcoa will grant the TNC a conservation easement that will protect another almost 4000 acres of Alcoa land for the term of the new APGI license, which is at FERC's discretion, but is expected to be 40 years. Once the term of the new license has run, those 4000 acres will once again be owned by Alcoa free and clear of any encumbrance.

I'd like to turn now to the FERC jurisdictional issue and the reason for the "Tapoco Project Relicensing Act of 2004". Despite the thousands upon thousands of hours dedicated by all parties towards reaching consensus on the operation of the Tapoco Project under a new license, FERC lacks authority under the Federal Power Act to relicense the Tapoco Project as presently configured. Specifically, a portion of the Project's Chilhowee Reservoir floods four side stream embayments inundating approximately 100 acres of land within the authorized boundary of Great Smoky Mountains National Park. These lands were included within the boundary of the Park when it was first created in 1926 but, apparently for financial reasons, the government decided at that time not to acquire the flooding rights for those lands that were then held by APGI's corporate predecessor. However, the Federal Power Act and the Great Smoky Mountains National Park legislation of 1926, 16 U.S.C. §403 *et seq.*, each prohibit the licensing of hydroelectric projects inside the Park. Thus, it appears the Tapoco Project was erroneously licensed in 1955 to include within the Project boundary the four embayment areas located within the Park that were flooded with the construction of the Project's Chilhowee development in 1957. As a result, while APGI owned in 1955 and still owns to this day valid property rights to flood those lands within the Park, FERC nonetheless is without jurisdiction under federal law to issue a new license for the Project.

Under the terms of S. 2319, the Park Service and APGI will exchange certain lands located in Tennessee in order to correct mistakes made 50 years ago and to clear the way for FERC to relicense the Tapoco Project. This legislation is necessary to affirm that FERC has jurisdiction to relicense the Project once the exchange is consummated. Specifically, the bill would direct the Secretary of Interior to acquire from APGI 189 acres of ecologically valuable lands located within the authorized boundaries of the Park, currently owned by Alcoa, in exchange for approximately 100 acres of land located within the Park and the boundary of the Tapoco Project. Under the terms of the legislation, the Secretary would also be directed to reserve a conservation easement over the lands transferred to APGI that would: (1) prohibit any development on the lands; (2) ensure continued public access to the lands; and (3) authorize the National Park Service to continue to enforce Park regulations on those lands transferred. The legislation also authorizes the Secretaries of Interior and Agriculture to adjust the boundaries of the Park and adjacent U.S. forests in order to accept the lands that are expected to be transferred by APGI to the TNC and subsequently by the TNC to the Federal Government.

It is very important to APGI and the many signatories to the Settlement Agreement noted above that this legislation is enacted by Congress before FERC is due

to make a relicensing decision on the Tapoco Project. There are indications that FERC could act as soon as August of this year, and if the bill is not enacted by then, FERC will be forced to issue annual licenses until Congress grants it jurisdiction. In an annual license, many of the elements of the Settlement Agreement, including the conservation easements and the option to purchase land, would not be effective.

Thank you for allowing me to speak about this important bill. APGI is grateful for Senator Alexander's leadership on the legislation and for the Subcommittee's quick action in holding this hearing.

Senator THOMAS. Thank you. Thank you for being here.

Ms. Copeland.

**STATEMENT OF KATHY COPELAND, DIRECTOR OF POLICY
AND LEGISLATION, SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, WEST PALM BEACH, FL**

Ms. COPELAND. Thank you, Mr. Chairman. It is a pleasure to be here on behalf of the State of Florida in support of S. 2046.

I am Kathy Copeland. I work for the Water Management District, and we are the local sponsor to the Corps of Engineers for the largest public works project in the country. We are also home to over six national refuges and parks, and so that is the reason why Congress in the year 2000 decided to modernize the central and southern Florida flood control project and address some of the environmental impacts that this project has caused.

Under the leadership of Governor Bush and the support of our legislature, we have dedicated \$200 million to the Everglades Restoration Project since the year 2000. That has allowed us to take into public ownership over half of the property that is needed for the implementation of this project. We are also very committed to Everglades National Park restoration and have a longstanding commitment. One of the demonstrations of that is that the State of Florida has donated 46,000 acres of State-owned land into the park to achieve the expansion of the Everglades National Park.

It is not the end, though. The two projects that are necessary to fulfill the total benefits for the restoration are the C-111 project and the modified water deliveries project.

The C-111 project is the one that this bill addresses. Land exchange is the critical link that is necessary to make this project happen, and it basically will, as you know, be an even exchange of land. It will create a buffer, a detention area, if you will, to allow the park waters to not seep out and also allow the State of Florida to continue to provide flood protection to the areas that are to the east.

I would like to say that there were five alternatives that were addressed. Mr. Hoffman mentioned that to you. The alternative that was chosen was the lands that provide the most ecological benefit to the Everglades National Park, but from the State's perspective, they also were the ones that had the least amount of impact to the recreational users in that area. And so for that reason, we supported this alternative.

We would like to move forward on this as quickly as possible because this project is scheduled for completion in the year 2006, and so we urge your support.

I would like to thank Senator Graham for sponsoring this. On a personal note, the State of Florida is going to miss him when he leaves the Senate.

Thank you.

[The prepared statement of Ms. Copeland follows:]

PREPARED STATEMENT OF KATHY COPELAND, DIRECTOR OF POLICY AND LEGISLATION,
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Good afternoon, Mr. Chairman, and members of the subcommittee. It is a pleasure to be with you today representing the State of Florida's support of Senate Bill 2046, authorizing the exchange of land in Everglades National Park (ENP). I am Kathy Copeland, Director of Policy and Legislation at the South Florida Water Management District (SFWMD).

The SFWMD is the local sponsor to the US Army Corps of Engineers (USACE) for the Central & Southern Florida Flood Control Project (C&SF), which was authorized by Congress in 1948. The existing project encompasses 18,000 square miles, including over 11,000 miles of canals, 200 water control structures and half of the remaining Everglades wetlands. It is the largest public works project in the country, extending from Orlando in the north to the Florida Keys in the south, including Everglades National Park. In fact, six national parks and refuges lie within the boundaries of the water management district. You will remember that in 2000, Congress recognized the need to modernize this 50-year old system and to address its undesirable impacts on the environment. In response, they authorized the Comprehensive Everglades Restoration Plan (CERP) as the framework for restoration.

Under the leadership of Governor Bush and with the support of the state legislature, \$200 million have been dedicated annually from Florida, providing our state's share toward the restoration effort. Since 2000, this investment has totaled \$790 million. These funds have allowed the SFWMD to purchase 205,179 acres of land, representing more than half of the approximately 402,479 acres needed to implement CERP. Additionally, the state of Florida has donated over 42,000 acres of state-owned land to the federal government to complete the expansion of Everglades National Park.

The expansion of Everglades National Park is an important component in the Park's environmental restoration. This expansion in combination with the environmental enhancements provided by several projects will complete the restoration of Everglades National Park. Two of the most crucial projects for restoration of Everglades National Park are the C-111 Canal Project and Modified Water Deliveries to Everglades National Park Project. In fact, a Congressional mandate requires the completion of the C-111 Canal project prior to commencing with other restoration projects. Furthermore, the C-111 Canal project cannot meet its objectives without the land swap proposed in this bill.

C-111 CANAL PROJECT DESCRIPTION

The C-111 Canal project is located in southern Miami-Dade County, in the C-111 basin portion of the original C&SF project. The project is now comprised of modifications to the C&SF project, including acquisition of lands in the Frog Pond/Rocky Glades area and the construction of levees, canals and pump stations to divert water flow into the Taylor Slough portion of Everglades National Park. The 1994, GRR authorized construction of a buffer and detention system along the eastern boundary of ENP. This was designed to establish a "hydraulic ridge," to reduce seepage from ENP and also reestablish the historical surface water flow from Northeast Shark River Slough to Taylor Slough. This detention and buffer system provides these benefits while ensuring flood protection to the eastern urban and agricultural areas. As a point of clarification a detention system functions differently than a retention system. A pure retention system holds all water in an area. Conversely, a detention area holds water in an area but allows water to leave either by seepage and/or surface water discharges. This is an important distinction because while highly effective in reducing water seepage from Everglades National Park, the detention system will not eliminate seepage altogether because Florida's highly permeable limestone subsurface will always allow some ground water movement. The authorized detention and buffer system affected by the land swap consists of a series of detention areas, a ½ mile-wide buffer between the detention areas and the L-31N Canal and three pump stations to move water from the L-31N Canal into the detention areas.

REASON FOR LAND SWAP

The State of Florida strongly supports this critical exchange of lands between the SFWMD and Everglades National Park. The C-111 Canal project is scheduled for completion by 2006 and requires the land swap between ENP and the local sponsor (SFWMD) to allow completion of the detention and buffer system. Currently, only 700 acres of the approximately 3,000 acres—or about 2.5 miles of the 8 mile-long detention and buffer system—has been constructed. Senate Bill 2046 authorizes the Secretary of the Interior (Secretary) to exchange approximately 1,054 acres of land from the Rocky Glades area of ENP for approximately 1,054 acres of land to be provided by the SFWMD from the Southern Glades Wildlife and Environmental Area.

REASON FOR CONGRESSIONAL ACTION

The USACE has been advised that the National Park Service cannot provide lands to the C-111 Canal project without assurances from the USACE that ENP would receive compensatory lands of similar size and quality to ensure that the size of ENP remains unchanged. In addition, Congress must authorize any national park boundary changes larger than 200 acres.

To maintain the intent of the ENP Protection and Expansion Act of 1989, the ENP has proposed an exchange of lands with the non-federal sponsor (SFWMD), recognizing this as a requirement for C-111 Canal project completion. In May of 1999, the USACE asked the ENP to review for acquisition several parcels of state-owned land within the Southern Glades Wildlife and Environmental Area, all located in the southern end of the C-111 Canal project.

In consultation with the U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission, the National Park Service evaluated five alternatives, including one proposed by the South Florida Water Management District. The resource-based criteria and evaluations are documented in the *Integrated General Reevaluation Report Supplement and Environmental Assessment*, completed in January 2002. The SFWMD's proposal, Alternative 5, was selected as the preferred alternative. Alternative 5 provides lands located between the southern end of the C-111 Canal and the southeastern panhandle of ENP. The SFWMD prefers Alternative 5, because the incorporation into ENP of this particular parcel of land will have the least impact on existing recreational use in the Southern Glades Wildlife and Environmental Area.

Again, I appreciate the opportunity to speak on behalf of S. 2046 and will be happy to answer any questions.

Senator THOMAS. Thank you.

Ms. Phillips.

STATEMENT OF FAYE PHILLIPS, ASSOCIATE DEAN OF LIBRARIES, LOUISIANA STATE UNIVERSITY, BATON ROUGE, LA

Ms. PHILLIPS. Thank you, Mr. Chairman. I am honored to testify in support of S. 1064, establishing the Civil War Sesquicentennial Commission. We are grateful to Senator Landrieu for her cosponsorship of the legislation as introduced by Senator Breaux, and I appreciate their remarks today.

I am Faye Phillips, Associate Dean of Libraries at Louisiana State University.

The legacy of the Civil War is a potent force in our Nation even today. That legacy is manifest in both the divisive issues of race and the politics of federalism and the fulfillment of the bold promise of democracy. The increasing number of publications, research organizations, reenactments, electronic resources, historic sites, and battlefield preservation efforts testify to the fact that interest in the Civil War is growing both nationally and around the world. By establishing a national commission to study and reflect upon the Civil War, we are seizing a significant opportunity to tap into the public's interest in this time period and foster unity among all of our citizens.

A defining era in our Nation's history, the Civil War has meaning for every American. Public memory of the war and its aftermath, coupled with scholarly research, continue to shape our conception of identity as Americans.

The Civil War Sesquicentennial Commission Act seeks to establish a national consortium of representatives of a variety of cultural institutions and academic disciplines to reflect diverse perspectives. It is truly an interdisciplinary look at the Civil War.

Commission members will plan national programs, serve as a resource for local and State organizations planning commemorative activities. They will coordinate and distribute scholarly publications to the public, administer grant programs to encourage interdisciplinary examination of the Civil War, and encourage involvement of the international community.

As you know, an act of Congress in 1996 named the United States Civil War Center at LSU and the Civil War institute at Gettysburg College as co-facilitators of the Civil War sesquicentennial. In 2002, as representatives of the State of Virginia, witness to more military engagements and host to more historic sites commemorating the Civil War than any other State, Pamplin Historical Park in Petersburg, Virginia, and the Virginia Center for Civil War Studies at Virginia Tech, joined our initiative.

As outlined in the legislation, funding is requested for these four institutions. These institutions would serve to assist the commission in its work by planning and implementing sesquicentennial programs such as a regrant program for institutions seeking to conduct interdisciplinary commemorative activities, designation of a national student essay award, publication and circulation of information packets, and organizing public lectures and symposia.

The Civil War is a cornerstone of our national heritage. It remains powerfully relevant in our modern world. By reflecting on this era, collectively as a Nation, under the direction of individuals representing major cultural institutions and a variety of perspectives, we can take significant steps to overcome fundamental issues that divide us and emerge unified.

Thank you again for the opportunity to speak with you today.

[The prepared statement of Ms. Phillips follows:]

PREPARED STATEMENT OF FAYE PHILLIPS, ASSOCIATE DEAN OF LIBRARIES, LOUISIANA STATE UNIVERSITY, BATON ROUGE, LA

Mr. Chairman, Members of the Committee, I am honored to testify in support of Senate Bill 1064 establishing the Civil War Sesquicentennial Commission. We are grateful to Senator Landrieu for her co-sponsorship of the legislation as introduced by Senator Breaux.

The legacy of the Civil War is a potent force in our nation even today. That legacy is manifest in both the divisive issues of race and the politics of federalism, and the fulfillment of the bold promise of democracy. The increasing number of publications, research organizations, reenactments, electronic resources, historic sites and battlefield preservation efforts testify to the fact that interest in the Civil War is growing, both nationally and around the world. By establishing a national commission to study and reflect upon the Civil War, we are seizing a significant opportunity to tap into the public's interest in this time period and foster unity among all of our citizens.

A defining era in our nation's history, the Civil War has meaning for every American, whether rich, poor, old, young, male, female, native born or new citizen. Public memory of the war and its aftermath, coupled with scholarly research, continue to shape our conception of identity as Americans.

The Civil War Sesquicentennial Commission Act seeks to establish a national consortium of representatives of a variety of cultural institutions and academic disciplines to reflect diverse perspectives. Members will represent the following institutions and/or academic disciplines:

- U.S. Senate
- U.S. House of Representatives
- Smithsonian Institution
- Department of Education
- National Endowment for the Humanities
- Library of Congress
- National Park Service
- National Archives
- members of the corporate community
- historians
- experts in art history, historic preservation, or a related field
- experts in anthropology, cultural geography, sociology, or a related field
- experts in political science, law, economics, or a related field

Commission members will plan national programs, serve as a resource for local and state organizations planning commemorative activities, coordinate and distribute scholarly publication to the public, administer grant programs to encourage interdisciplinary examination of the Civil War, and encourage involvement of the international community.

As you know, an Act of Congress in 1996 named the United States Civil War Center at LSU and the Civil War Institute at Gettysburg College as co-facilitators of the Civil War Sesquicentennial. In 2002, as representatives of the state of Virginia, witness to more military engagements and host to more historic sites commemorating the Civil War than any other state, Pamplin Historical Park in Petersburg, Virginia, and the Virginia Center for Civil War Studies at Virginia Tech, joined our initiative.

As outlined in the legislation, funding is requested for these four institutions. These institutions would serve to assist the commission in its work by planning and implementing Sesquicentennial programs, such as a re-grant program for institutions seeking to conduct interdisciplinary commemorative activities, designation of a National Student Essay Award, publication and circulation of information packets, and organizing public lectures and symposia.

The U.S. Civil War Center is actively partnered with individuals representing each of the other three Civil War research institutions. Gabor Boritt, director of the Civil War Institute, serves on the U.S. Civil War Center's National Advisory Board. James I. "Bud" Robertson, Jr., director of the Virginia Center for Civil War Studies, also serves on the U.S. Civil War Center's National Advisory Board, and is a contributor to the pages of the Center's publication, Civil War Book Review. In addition, Professor Robertson served as the executive director of the Civil War Centennial Commission. Arthur Bergeron, historian at Pamplin Historical Park, is a frequent reviewer for Civil War Book Review.

The Civil War is a cornerstone of our national heritage; it remains powerfully relevant in our modern world. By reflecting on this era collectively as a nation, under the direction of individuals representing major cultural institutions and a variety of perspectives, we can take significant steps to overcome fundamental issues that divide us, and emerge unified.

Thank you again for the opportunity to speak with you today.

Senator THOMAS. Thank you very much for being here.

Finally, Mr. Nau.

STATEMENT OF JOHN L. NAU, III, CHAIRMAN, TEXAS HISTORICAL COMMISSION; CHAIRMAN, ADVISORY COUNCIL ON HISTORIC PRESERVATION, HOUSTON, TX

Mr. NAU. Well, good afternoon, Mr. Chairman. Thank you. I appreciate this opportunity to speak on S. 2052, authored by Senator Kay Bailey Hutchison of Texas. My name is John Nau and I am the chairman of the Texas Historical Commission, which is the State agency for historic preservation. I also chair the Advisory Council on Historic Preservation. I am here today to testify in support of S. 2052.

This bill will amend the National Trails System Act to designate a new El Camino Real de los Tejas National Historic Trail, a combination of historic routes totaling 2,580 miles from the Rio Grande near Eagle Pass, Texas to Natchitoches, Louisiana.

This trail route was used for more than 150 years as the principal route between Mexico City and what is today northwestern Louisiana. If designated by Congress as a national historic trail, El Camino Real de los Tejas would be managed through cooperative partnerships with public agencies, nonprofit organizations, and importantly, private landowners.

The designation of El Camino Real de los Tejas as a unit of the national trails system would make it possible and easier to coordinate activities along the length of the trail between State, county, and city governments, as well as private landowners. It would also increase opportunities for coordination with the Mexican government on resource preservation and tourism.

There is much support for this legislation in Texas because this bill addresses the concerns of private landowners.

This bill authorizes the establishment of the El Camino Real de los Tejas National Historic Trail and the administration of the trail and related historic sites within privately owned lands only with the voluntary and express consent of the landowner. Nothing in the act or in the establishment of any portion of the trail authorizes anyone to enter private property without the consent of the landowner. Additionally, nothing in the act or establishment of any portion of the historic trail will authorize the Federal Government to restrict a private property owner's use or enjoyment of their own property.

This act does not in itself confer additional authority to apply any other Federal laws and regulations on non-Federal lands along the trail. Furthermore, the Federal Government would have no authority to condemn any privately owned property for the purpose of deeming it a portion of this historic trail. Should land ownership change hands, the new owner must consent to being included again in this historic trail.

Senator Hutchison's bill recognizes the importance of protecting these private property rights along the El Camino Real de los Tejas and allows for only voluntary participation to every willing landowner along this trail.

The Texas Historical Commission operates and maintains a series of historic trails as part of our Texas Heritage Trails Program. The program has been highly successful and serves to protect our historic, cultural, and natural resources. This program also creates jobs, increases property values, and generates tax revenues while educating residents and visitors about Texas history.

Texas ranks second in the Nation in the number of cultural and heritage tourists visiting the State. The Texas economy benefits from heritage tourists who spend more per day and stay longer than any other type of tourist. Heritage tourism is the fastest growing segment of the \$40 billion tourism industry in Texas. Establishment of a national historic trail along many of Texas' historic and cultural attractions would only strengthen an already positive experience for heritage travelers in the State of Texas.

Many Texas cities, counties, county historical commissions, and private citizens support this legislation. I urge you to do the same.

Mr. Chairman, thank you for your time and consideration. Thank you.

Senator THOMAS. Well, thanks to all of you. We appreciate you making the effort to be here and to comment on these bills that I know are of importance to you. I also want to tell you that the activities of people like yourselves on the ground are the things that cause these things to happen. We have to try and set some rules here in which we operate so that we have some definition of what the role of the Federal Government should be, although that is not always shared by everyone similarly.

So we may ask some questions and we may be writing to you. I will not ask any now. We have been here a while and you have covered it very well. So, thank you again and we may be in touch with questions for each of you.

Otherwise, the committee is adjourned.

[Whereupon, at 4:18 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

FEDERAL ENERGY REGULATORY COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, DC, May 26, 2004.

Hon. CRAIG THOMAS,
Chairman, Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: The Tapoco Project Licensing Act of 2004 (S. 2319)

DEAR MR. CHAIRMAN: Thank you for your May 13 letter in which you forward questions for the record of the April 27, 2004 Senate Energy and Natural Resources Subcommittee on National Parks hearing on the Tapoco Project Licensing Act of 2004 (S. 2319).

I am enclosing my responses to your questions. Additionally, I am providing a copy of our answers to Senator Bingaman's questions that we submitted to him on May 10, 2004 regarding S. 2319.

If you need further information, please do not hesitate to let me know.

Best regards,

PAT WOOD, III,
Chairman.

[Enclosures.]

QUESTIONS FROM SENATOR CRAIG THOMAS

S. 2319, THE TAPOCO PROJECT LICENSING ACT OF 2004

Question 1. Have any environmental or recreation groups expressed opposition to the proposed land exchange? If so, have you modified the proposal in any way to accommodate their concerns?

Answer. We are not aware of any groups expressing opposition to the proposed land exchange.

Question 2. The proposed land exchange is designed to facilitate relicensing of the power plant. Do you see this simply as a short term fix to get through the licensing process or is it considered a long term solution?

Answer. The proposed land exchange is considered a long term solution in that it would not only enable the Commission to expeditiously take action on the pending application for relicensing the Tapoco Project, but also any subsequent relicense application for the project.

Question 3A. Is the land exchange being completed as mitigation for obtaining the license to operate the hydroelectric plant?

Answer. Since staff was not a party to the settlement negotiations, we cannot say whether the settling parties considered the land exchange as mitigation for obtaining the license to operate the hydroelectric plant.

Question 3. What other types of mitigation are you being asked to perform and who is asking?

Answer. Other mitigation measures proposed by the settling parties include: modifying the impoundment rule curves; providing minimum flows; funding fish re-introduction; developing vegetation and rare, threatened and endangered species management plans; adding to, and improving recreation facilities; and preparing a Programmatic Agreement and Cultural Resources Management Plan.

Question 4A. Could FERC relicense the power plant without this legislation?

Answer. The land exchange provided for by S. 2319 will allow the Commission to consider Alcoa's proposal to relicense the project in its current form, as contemplated by the agreements in principle, without the need to address the issue of a portion of the project being located in a national park. If the legislation were to provide that the transfer be concluded within a reasonable time following enactment, it would help ensure the Commission's ability to act on Alcoa's proposal by date the current license expires, in 2005.

Question 4B. Why has FERC allowed Alcoa to operate the plant for so many years without the land adjustment?

Answer. Until the issue recently arose during relicensing proceedings, there was nothing in the record to indicate that the project occupied National Park lands; therefore, the Commission had no knowledge of any need for a land adjustment. The Commission issued the original license for the Tapoco Project on March 17, 1955, for a period of 50 years, effective March 1, 1955, and expiring on February 28, 2005. The 1955 license authorized the construction and operation of the Chilhowee Development, and the continued operation of the Calderwood, Cheoah, and Santeetlah Developments. The license order did not state that a portion of the project would occupy national park land. Moreover, the license application, filed on October 25, 1954, states that "[n]o lands or reservations of the United States will be affected by the . . . [p]roject." A search of the Commission's files has produced no information that sheds further light on the matter.

FEDERAL ENERGY REGULATORY COMMISSION,
OFFICE OF ENERGY PROJECTS,
Washington, DC, May 10, 2004.

Hon. JEFF BINGAMAN,
Ranking Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: Thank you for your questions for the record of the April 27, 2004 Senate Energy and Natural Resources Subcommittee on National Parks hearing on S. 2319, the Tapoco Project Licensing Act of 2004.

I have enclosed my responses to your questions. If you have further questions or need additional information, please do not hesitate to let me know.

Sincerely,

J. MARK ROBINSON,
Director.

[Enclosure.]

QUESTIONS FROM SENATOR JEFF BINGAMAN

Question 1. You testified that the original license for the Tapoco Project issued by the Federal Power Commission on March 17, 1955 "did not state that a portion of the project would occupy national park land." Nonetheless, the original license strongly suggests that the Commission was aware of the proximity of the project to the Great Smoky Mountains National Park and was concerned about the "status" of the "lands included in the project." 14 F.P.C. 610.

Paragraph (9) of the order plainly states that the Commission found that most of the exhibits filed by the license applicant "conform to the Commission's rules and regulations and should be approved as part of the license for the project." Yet paragraph (9) also indicates that the Commission found those exhibits "showing a detailed project boundary and the land status of all lands included in the project" to be wanting. The Commission expressly ordered that the "Licensee shall file, within three years from the effective date of the license, . . . [new exhibits] showing a detailed project boundary and the land status of all lands included in the project." In addition, it ordered the licensee to "cooperate with the National Park Service in the preservation of park values along those sections of the Great Smoky Mountains National Park boundary fronting on the proposed lake," and to "consult with the National Park Service regarding the relocation of U.S. Highway No. 129." 14 F.P.C. 610.

On February 27, 1959, the licensee filed the requisite exhibits "showing the project boundary and project lands." The Commission expressly found that the new exhibits "conform to the Commission's rules and regulations" and ordered that they be "approved as part of the license." 21 F.P.C. 651. Plainly, the Federal Power Commission knew, or should have known, that it was licensing a power project in a national park.

Please explain how the Federal Power Commission could have issued the original license for the Tapoco Project, No. 2169, without knowing that the project encroached on the Great Smoky Mountains National Park, or, if it knew, how it could justify issuing the license without lawful authority.

Answer. As explained in my testimony, the 1955 license which authorized the construction and operation of the Chilhowee Development, and the continued operation of the Calderwood, Cheoah, and Santeetlah Developments, did not state that a portion of the project would occupy national park land. Moreover, the license application, filed on October 25, 1954, states that “[n]o lands or reservations of the United States will be affected by the . . . [p]roject.” Commission staff cannot go beyond the words of the 1955 Commission’s order to hypothesize what it or the National Park Service knew about the location of the Tapoco Project with respect to the Great Smoky Mountains National Park. As I stated, the record of the licensing proceeding does not reveal that either agency discussed the matter. Commission staff has found nothing in the record that demonstrates that the Commission was aware at the time that it issued the project license that a portion of the project was located in a national park. The facts that the Commission required the licensee to provide more detail about the project’s boundaries, to cooperate with the National Park Service in the preservation of park values along those sections of the Great Smoky Mountains National Park boundary fronting on the proposed lake, and to consult with the National Park Service regarding the relocation of a highway, do not, without more, demonstrate that the Commission knew that a portion of the proposed project was located in a National Park.

Question 2. How many other power projects, if any, has the Federal Power Commission or the Federal Energy Regulatory Commission licensed in national parks or monuments without statutory authority?

Answer. Other than the Tapoco Project, Commission staff is aware of no instance in which the Commission has issued a license for a hydropower project in a national park or national monument without statutory authorization.

Question 3. What safeguards, if any, has the Federal Power Commission or the Federal Energy Regulatory Commission erected since 1955 to prevent the issuance of licenses for power projects in national parks or monuments?

Answer. Commission staff is cognizant of the extent of the Commission’s hydro-power licensing jurisdiction set forth in Part I of the Federal Power Act, and is vigilant in complying with all statutory requirements. The license application regulations and procedures in place in the 1950s bear little resemblance to the vastly more detailed and comprehensive licensing process of today. The Commission’s current hydroelectric licensing process provides for a thorough examination of environmental impacts by Commission staff, and for extensive public input designed to highlight all issues with respect to a proposed project. Before filing a license application, an applicant must contact and consult with all relevant Federal, State, and Interstate resource agencies, including “the Federal agency administering any United States lands or facilities utilized or occupied by the project.” See 18 C.F.R. § 4.38(a) (2003). The potential license applicant must provide the Federal agencies with specific information, including “[d]etailed maps showing project boundaries, if any, proper land descriptions of the entire project area by township, range, and section, as well as by state, county, river mile, and closest town, and also showing the specific location of all proposed project facilities. . . .” See 18 C.F.R. § 4.38(b)(1)(i) (2003). The potential applicant then must schedule a joint meeting with all pertinent agencies, with Indian tribes, and with the public, including an opportunity for a site visit. See 18 C.F.R. § 4.38(b)(2) and (3) (2003). Following the public meeting, the agencies and tribes are to provide comments to the potential applicant. See 18 C.F.R. § 4.38(b)(4) (2003). Next, the potential license applicant must diligently conduct all reasonable studies and obtain all necessary information requested by agencies and Indian tribes (unless Commission staff determines that the studies or information is unnecessary). See 18 C.F.R. § 4.38(c) (2003). The potential applicant must provide agencies and Indian tribes copies of a draft application, which must include responses to any comments or recommendations they have made, and a request that they review and comment in writing on the draft application. See 18 C.F.R. § 4.38(c)(4) (2003). If the written comments indicate that the agency or Indian tribe has a substantive disagreement with the potential applicant’s conclusions, the potential applicant must hold a joint meeting to discuss and attempt to resolve disagreements, and must provide the Commission with an explanation of any disagreements. See 18 C.F.R. § 4.38(c)(5-8) (2003). When an application is filed with the Commission, the application must be served on consulted resource agencies or Indian tribes, see 18 C.F.R. § 4.38(d)(2) (2003); the applicant must document consultation and any disagreement with resource agencies or Indian tribes, see 18 C.F.R. § 4.38(f) (2003); and the applicant must issue public notice of, and conduct, another joint

meeting at or near the site of the project. *See* 18 C.F.R. § 4.38(h)(4). The Commission's regulations require that maps provided by applicants must include "[b]oundaries of public lands and reservation of the United States, if any," using official plats of survey from the Bureau of Land Management or, where those are not available, township and section lines "recognized by the Federal agency administering those lands." *See* 18 C.F.R. § 4.39 (2003). A license application must list "[a]ll lands of the United States ... that are enclosed within the project boundary. . . ." *See, e.g.,* 18 C.F.R. § 4.41(b)(6) (2003). Also, the Environmental Report submitted with the application must include reports on water use and quality and fish wildlife, and botanical resources prepared in consultation with any State or Federal agency with management authority over any part of the proposed project lands; a report on historical and archeological resources, prepared in consultation with relevant State officials and the National Park Service; and a report on recreational resources, prepared in consultation with, among other agencies, the National Park Service; and a report describing the existing uses of the proposed project lands and adjacent property, prepared in consultation with "any Federal or state agency with managerial responsibility for the proposed project or abutting lands." *See, e.g.,* 18 C.F.R. § 4.41(f)(2), (3), (4), (7) and (9) (2003).

In the course of its environmental review of license applications, Commission staff conducts public scoping to identify potential issues. After the Commission's public notice that an application is ready for environmental review, the Commission requests comments and conditions from all interested parties, specifically including Federal agencies. *See* 18 C.F.R. § 4.34(b) (2003). Commission staff generally issues a draft environmental document for comments. This includes an independent analysis of the environmental impacts of proposed projects, including a review of land uses. When a license is issued, parties may file requests for rehearing before the Commission, setting forth any alleged errors made by the Commission in its licensing order.

Considering this thorough and public process, it is difficult to imagine a license today being inadvertently issued for a project within a national park or national monument. I note that the Commission's new regulations establishing an integrated licensing process, which are being implemented over the next two years, contain even more requirements regarding communication between prospective license applicants and affected parties, and also provide for increased involvement by Commission staff in the pre-filing periods. This will render it even less likely that a national park issue would not be raised early on.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, June 10, 2004.

Hon. DANIEL AKAKA,
Ranking Member, Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR AKAKA: Enclosed is the response to the follow-up question that you submitted to the Department after the Subcommittee's April 27 hearing. If there are questions regarding any of these responses, please contact the National Park Service's Office of Legislative and Congressional Affairs at (202) 208-5656.

Sincerely,

CRAIG MANSON,
Assistant Secretary for Fish and Wildlife and Parks.

Question. Mr. Hoffman, in your answer to my question about the use of the land to be transferred to the South Florida Water Management District, you indicated that the District could use the land for both restoration of Everglades National Park and for flood protection without causing harm to the Park. What steps will the Department take to monitor whether or not harm is caused to the Park? What will the Department do if harm is found to occur within the Park due to the use of this exchanged land?

Answer. The Department of the Interior, including the National Park Service (Everglades National Park) and Fish and Wildlife Service, is a partner with the Army Corps of Engineers (Corps) and the South Florida Water Management in implementing the C-111 Project. As indicated in the testimony, the primary purpose of the land exchange is to allow for the construction of a series of detention basins that will, in the end, restore park habitat that was damaged by past operation of the Central and Southern Florida Project. The Department's primary role in this project is to provide technical analysis and input to the Corps on the design and operation of the detention basins. In that role, the Department and its agencies will assist in

the development and analysis of project alternatives to ensure that the project achieves its intended environmental benefits without causing negative adverse impact to park resources. The Department believes that relevant federal and state environmental laws protecting park resources and water quality provide protection to ensure that this result will be achieved. Further, systematic monitoring of the project's operation on park resources will be a key element in ensuring that park resources are not adversely affected. If the monitoring of the project operations reveals that adverse impacts are occurring to park resources as a result of the project operations, then the National Park Service and the Department of the Interior will work with the Corps, and the South Florida Water Management District, to modify the operation of the project so that adverse impacts to park resources are avoided and that the overall restoration objectives of the project are realized.

RESPONSES OF THE NATIONAL TRUST FOR HISTORIC PRESERVATION TO QUESTIONS
FROM SENATOR THOMAS

Question 1a. The National Trust for Historic Preservation is a non-profit organization that raises funds and promotes the preservation of historic and culturally significant properties. What is the role of the National Trust in maintaining and interpreting sites honoring Presidents?

Answer. The National Trust was chartered by Congress in 1949 to care for some of the nation's most historic places and maintain them for their educational value and the public benefit. As such, the Trust currently owns and operates 25 properties in its inventory of "National Trust Historic Sites." Three of these qualify as "Presidential sites." They are 1) Montpelier in Virginia—the former home of James Madison; 2) the Woodrow Wilson House in the District of Columbia; and 3) the Lincoln Cottage, President Lincoln's former "Camp David" located on the grounds of the "Soldiers' Home" also in this city.

Question 1b. Does the National Trust accept donations for use toward maintaining and interpreting Presidential sites? If so, approximately how much do you raise annually for this purpose?

Answer. Yes, the National Trust does accept donations for maintaining and interpreting Presidential Sites. At Montpelier, which has an annual operating budget of \$2.3 million, we raise \$744,000 through admissions and fees, \$1.31 million through annual donations, and \$244,000 from endowment income. At the Woodrow Wilson House, which has an annual operating budget of \$500,000, we raise \$120,000 through admissions and fees, \$280,000 through annual donations, and \$110,000 in endowment income. Over the past five years, the National Trust has provided \$266,000 to Montpelier and \$120,000 to Wilson House through its Historic Sites Fund and Interpretation and Education Fund. Although the Lincoln Cottage is included in this inventory, it is still in the midst of an exterior restoration and not yet open to the public, so I don't think its fundraising budget would provide a good example here. Also, as a federally owned property, it would not be eligible for funding under this bill.

Capital Needs for Montpelier: \$9.5 million over the next ten years.

Essential costs include projects to meet building code compliance, enhance visitor safety, and improve accessibility.

Capital Needs for Woodrow Wilson House: \$3 million over the next ten years. Major upgrades are needed to security, fire protection, improved collections storage for 8,000 presidential objects, overall climate control for the entire site, and interpretation improvements including website based educational programs for students.

Question 2a. The proposed legislation limits the amount of funds available for sites based on the annual operating budget. Those with an annual budget less than \$700,000 can compete for 65 percent of the money and those with an annual budget greater than \$700,000 can compete for only 20 percent of the money. How many sites fall into these 2 categories?

Answer. Of the 133 Presidential sites nationwide listed by the American Association of State and Local History, 45 are operated by the federal government. Of the remaining 88 sites, 23 are state-run and the rest are owned by non-profit organizations or private individuals and would all qualify for funding under the bill. There are 5 sites that exceed an annual operating budget of \$700,000. They are Mount Vernon, Montpelier, Monticello, Jefferson's Poplar Forest, and Rutherford B. Hayes Presidential Center.

Question 2b. Is this a fair way to divide the money or should all sites be allowed to compete for all funding?

Answer. This is a fair way to accomplish the precise goal of the bill—that is to target a relatively small amount of funding to the properties where the need is

greatest, especially those Presidential sites that may be smaller and lesser-known. We believe that even those smaller, lesser-known places are just as important to telling the complete story of a chief executive's legacy and it is those sites that are in greatest danger of deferring maintenance or lacking the monies for proper interpretation.

Question 3. Many of the Presidential sites are currently operated by state agencies. Is it appropriate for the federal government to be responsible for funding state-owned property?

Answer. It certainly appropriate for federal funds to help out with some of the capital costs not borne by state or private sources. Twenty-three of the 133 Presidential sites across the country are state-run, and as my testimony outlines through several examples, state funding for historic preservation—this includes the operation of historic sites—is at an all-time low. State budget crises combined with inadequate federal funding through the Historic Preservation Fund have stretched resources to the breaking point and Presidential sites are by no way immune to the effects of cost cutting. State-run Presidential sites have reduced hours of operation, deferred exhibits, cut staff, and postponed critical maintenance needs.

DEPARTMENT OF THE INTERIOR,
OFFICE OF LEGISLATIVE CONGRESSIONAL AFFAIRS,
Washington, DC, July 30, 2004.

Hon. CRAIG THOMAS,
Chairman, Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed are the answers to the follow-up questions from the hearing held by Subcommittee on National Parks on April 27, 2004 on S. 1064, S. 1092, S. 1748, S. 2046, S. 2052, and S. 2319. These responses have been prepared by the National Park Service.

Thank you for giving us the opportunity to respond to you on this matter. We apologize for the delay in our response.

Sincerely,

JANE M. LYDER,
Legislative Counsel..

[Enclosure.]

QUESTIONS FROM SENATOR THOMAS

Question 1. (S. 1064, Civil War Commission): Have similar commissions been formed in advance of milestone events similar to this? How successful were they? How does the proposed civil war sesquicentennial commission compare in size, composition, and scope of responsibility to previous commissions?

Answer. Yes, commissions have been formed for milestone events such as the Centennial of Flight, Abraham Lincoln Bicentennial, and the most recent example, the establishment of the Jamestown 400th Commission, authorized in December 2000 to celebrate the 2007 anniversary. This commission is comprised of 16 members, appointed by the Secretary of the Interior, based on recommendations by the Governor and the Jamestown 2007 Steering Committee, and includes individuals with expertise appropriate to the commemoration. There was no time line for appointing members to the commission. The scope of responsibility for the commission was very broad-based to include all relevant parties associated with the 400th commemoration. Most commemorative commissions have about 15 members, no more than 20. We believe the Civil War Commission should be a smaller, more manageable size. Overall, these commissions are very valuable at bringing together diverse groups to work on celebrating commemorative events.

Question 2. (S. 1064, Civil War Commission): Has the National Park Service taken any steps to prepare for the Civil War sesquicentennial? How far in advance do you intend to begin planning for the milestone?

Answer. The National Park Service has already begun preparations for the 150th anniversary. Back in 1989 and 1990, Congress directed the NPS in two different public laws (P.L. 101-214 and 101-377) to address the causes and consequences of the Civil War. Since that time, new exhibits have been installed at many parks including Harpers Ferry National Historical Park and Richmond National Battlefield Park. More exhibits are planned for other parks such as Gettysburg National Military Park and Stones River National Battlefield. In addition, there have been Civil War-related publications including a new brochure at Fort Sumter National Monument, a new handbook at Appomattox Courthouse National Historical Park, and

three new films at Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park.

Question 3. (S. 1092, Veterans Memorials Database): Gathering data for the proposed database could be quite extensive. Approximately how many veterans memorials currently fall under the jurisdiction of the National Park Service?

Answer. There are approximately 3,196 veterans monuments, memorials and markers within units of the National Park System.

Question 4. (S. 1092, Veterans Memorials Database): Do you currently maintain a database on other types of memorials? Could the National Register of Historic Places be modified to include information on veteran's memorials?

Answer. The National Park Service maintains an inventory of all historic and pre-historic structures that are significant in the 388 units of the National Park System. Currently there are 26,531 structures listed. Some of these structures are also listed on the National Register of Historic Places, but the Register is a more extensive list that includes all cultural resources, public and private, and is not limited to military sites. The Register is already set up to include nationally significant military resources if they meet the criteria for listing; most commemorative works do not meet this standard. It would be problematic to modify the Register to include commemorative works that do not meet the criteria for listing.

Question 5. (S. 1092, Veterans Memorials Database): Is the National Park Service the appropriate agency for establishing and maintaining a database on veterans memorials or would some other agency be more appropriate?

Answer. We do not believe this is an appropriate role for the NPS because it could take resources away from maintaining and protecting our parks. Since an existing database has been compiled and is maintained by RVETS (Remembering Veterans Who Earned Their Stripes), we would recommend they continue this function and seek financial support, if required, through private and federal grants available for this purpose.

Question 6. (S. 1748, Maintaining Sites Honoring Presidents): How many sites are potentially affected by this bill?

Answer. Non-Federal presidential sites include birthplaces, homes, memorials, tombs, and libraries. These sites are owned and managed by family foundations, colleges and universities, libraries, historical societies, historic preservation organizations, and other non-profit organizations. The National Park Service does not maintain a current database of these sites. However, in the written statement submitted at the hearing by Richard Moe, President of the National Trust for Historic Preservation, it says, "... the American Association for State and Local History documents 133 Presidential historic sites nationwide with only 45 run by the Federal government." Using those figures, approximately 88 sites would be affected by this bill.

Question 7. (S. 1748, Maintaining Sites Honoring Presidents): How much did the National Park Service spend on Presidential sites each year during the past five years?

Answer. Please see attached list that covers FY 02-05 (requested).

Question 8. (S. 2046, Everglades Land Exchange): A Comprehensive Everglades Restoration Plan has been developed to guide the multi year effort to restore the Everglades ecosystem. Is this the only land exchange envisioned in that plan? Will any land acquisitions be needed to complete the plan? If so, how many acres of private land and what is the estimated cost?

Answer. The State of Florida is responsible to acquire any lands that are needed to implement the Comprehensive Everglades Restoration Plan (CERP), and we do not envision any land exchanges between the federal government and the State of Florida for the purpose of implementing CERP. To date, the State has acquired nearly half the acreage that is required to implement CERP; however, the Department does not have current information on the total cost for the remaining lands that the State needs to acquire.

In contrast, S. 2046 authorizes a land exchange that is needed to implement portions of the C-111 Project, which is on-going and pre-dates CERP, and is intended to restore habitat within Everglades National Park and restore more natural flows of water to Florida Bay. Prior planning, in which NPS participated, determined that the most appropriate lands to build the C-111 project features included parklands. Because the amount of park acreage that is needed is above the level at which the Secretary may adjust the boundary of the park, legislative authorization is required.

Question 9. (S. 2046, Everglades Land Exchange): Will the land exchange have any impact on agriculture in the area?

Answer. The exchange authorized by S. 2046 will not affect local agricultural operations; the lands being provided to the South Florida Water Management District are within the boundary of Everglades National Park. The lands being provided in

return by the South Florida Water Management District's Southern Glades Wildlife and Environmental Area are substantially similar to the lands within the park.

Question 10. (S. 2052, El Camino Trail): Does the National Park Service have a policy regarding activities such as oil and gas development within the viewshed of national trails?

Answer. The National Trails System Act is silent about viewsheds—although this is an issue that is often considered in the comprehensive management plan for a trail, based on public input. So far, the impacts of oil and gas drilling have been the responsibility of on-the-ground trail segment managers, such as BLM in Wyoming. Historically, pipeline rights-of-ways have been approved across some trails and oil and gas development occurs within viewsheds of several trails.

Question 11. (S. 2052, El Camino Trail): How wide a corridor will the National Park Service need to develop and interpret this trail?

Answer. For a hiking trail in woodlands, a narrow corridor is usually sufficient (a few hundred feet on either side often protects the trail from impacting adjoining land uses). As soon as the view opens up with overlooks, associated structures, divergent traces, etc., the trail corridor may vary in width.

Historic trail corridors are particularly tough to estimate because local conditions vary. On Federal lands, the trail corridor and its associated features may be quite wide. Elsewhere it is often a remnant trace, narrowed by subsequent development, fences, pipelines, and highways. Since the non-Federal segments of historic trails are almost all designated through a certification process, the certification agreement will define the size and scope of the site as mutually agreed upon by the site owner and the trail administrator.

Question 12. (S. 2319, Great Smoky Mountains Land Exchange): We've been hearing a great deal recently about the air quality in national parks. Powerplants have been implicated as the source of some of the pollutants. Does the Tapoco plant contribute to pollution in the area?

Answer. Great Smoky Mountains National Park ranks among the most heavily impacted by poor air quality. Part of the park's air quality problems stem from the burning of fossil fuels to produce power. ALCOA's smelting facility located near the park gets approximately 50 percent of its electrical power from the four hydropower dams that make up—the Tapoco project. The production of hydropower has no impact on air quality. The other 50 percent is purchased from the Tennessee Valley Authority, a significant portion of which (60 percent) is fossil-produced.

Question 13. (S. 2319, Great Smoky Mountains Land Exchange): Have any individuals or groups contacted the Department of the Interior or National Park Service to voice opposition to the proposed land exchange and hydroelectric plant relicensing?

Answer. No. In fact, we believe that the exchange authorized in S. 2319 is an excellent example of Secretary Norton's 4 C's, Conservation through Cooperation, Consultation and Communication and demonstrates how environmental groups, local and state governments, industry, tribes, and the Federal government can work cooperatively on the conservation of important environmental resources.

Question 14. (S. 2319, Great Smoky Mountains Land Exchange): Could this land exchange occur without legislation?

Answer. Technically, yes, but it would not achieve the intended goals of the settlement agreement, which include resolving the jurisdictional issue between FERC and NPS. The lands could potentially be exchanged under existing land exchange statutes, but this would fall short of meeting the needs of all of the stakeholders who are involved. The end result would be a highly contested and controversial land exchange process, and FERC would still lack the jurisdiction to issue a new license for the Tapoco project. None of the parties involved would benefit from such an exchange.

Question 15. (S. 2319, Great Smoky Mountains Land Exchange): The proposed legislation states that funds are authorized to be appropriated for carrying out the act. The funds are needed for DOI and USDA to purchase a conservation easement from the Nature Conservancy. How much money is needed and will the easement run for a specified time or in perpetuity?

Answer. The Settlement Agreement that is a part of the relicensing process and is referenced in the bill contains several provisions regarding easements. These easements are on lands that APGI owns and they will be donated to, and held by, a non-governmental organization (NGO), either the Nature Conservancy or some other group. The NGO may then acquire the remaining fee value of the lands. The terms of the easements range from permanent to the term of the relicensing. Nothing in this legislation commits or requires the Department or USDA to purchase easements or land protected by the easements at this time.

Question 16. (S. 2319, Great Smoky Mountains Land Exchange): The Tapoco powerplant license expires in February 2005. The Federal Energy Regulatory Commission is asking that the land exchange be completed by December 31, 2004. What is the process for completing the land exchange and can DOI complete all necessary requirements by the end of 2004?

Answer. There are several steps that the Department must complete in order for the exchange directed under S. 2319, as amended, to be finalized including completing legal descriptions of the parcels involved, of the parcels, ordering and receiving the titles and hazardous materials surveys for the parcels, receiving the title opinion, reviewing and approving the hazardous materials surveys, final review of the deeds and transactions documents, and closing on the transaction. Many of these requirements are done by contractors and completing the entire process usually takes several months. We estimate that the requirements can all be completed by the end of 2004, subject to the availability of funding and assuming that the contractors complete their portions on or before their deadlines.

QUESTIONS FROM SENATOR CAMPBELL

Question 1. (S. 1092, Veterans Memorials Database): Although this bill has not been scored by the CBO, a similar bill was scored in the 107th Congress, and assuming Department of the Interior appropriations in the necessary amounts, CBO estimated that it would cost about \$1.6 million over the next year or two and around \$500,000 per year thereafter to establish and maintain the memorial database. With these additional funds do you think the National Park Service could maintain this database without taking away from or neglecting already existing park units?

Answer. The additional funds would enable the National Park Service to fulfill this directive, however, we believe that this project is well beyond the mission and existing capability of the National Park Service. It seems more logical to have RVETS (Remembering Veterans Who Earned Their Stripes) be the entity to receive additional funding to continue a project they started and have maintained over the past several years.

Question 2. (S. 1092, Veterans Memorials Database): You have testified that maintaining a permanent database is a laudable goal. And, I have heard from the Department of Veterans Affairs that they don't have the infrastructure but would be glad to participate in a database project. So everyone supports the goals of this legislation but no one wants to take the lead.

We have seen a grassroots effort to recognize every veteran who was honored in war. Don't you think it is fitting that a government agency like the National Park Service be able and willing to preserve the only tangible reminders we have of brave service to this country?

Answer. It is fitting for some entity, be it public or private, to maintain a permanent memorial database. We believe that this database should be preserved by the state or local governments who largely sponsored them originally or by a private, non-profit group such as RVETS. Again, the scope of this endeavor is beyond the mission and existing capability of the National Park Service.

Question 3. (S. 1092, Veterans Memorials Database): You say that the information you have on your inventory of memorial structures may be of interest to a wide audience, such as the public. Is that information now available to the public? How would someone access that information?

Answer. The information in our inventory of historic structures is available by request, and we have offered to share it as part of this effort.

Question 4. (S. 1092, Veterans Memorials Database): What is the criteria to meet the basic National Register of Historic Places? How do you see it as differing from the types of permanent memorials specified by S. 1092?

Answer. The criteria of the National Register of Historic Places are specified in 36 CFR 60.4 cited below. As emphasized below in bold, most memorials considered under S. 1092 would not qualify for National Register of Historic Places consideration.

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 60—NATIONAL REGISTER OF HISTORIC PLACES

Sec. 60.4 Criteria for evaluation.

The criteria applied to evaluate properties (other than areas of the National Park System and National Historic Landmarks) for the National Register are listed

below. These criteria are worded in a manner to provide for a wide diversity of resources. The following criteria shall be used in evaluating properties for nomination to the National Register, by NPS in reviewing nominations, and for evaluating National Register eligibility of properties. Guidance in applying the criteria is further discussed in the “How To” publications, Standards & Guidelines sheets and Keeper’s opinions of the National Register. Such materials are available upon request.

National Register criteria for evaluation. The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and

(a) that are associated with events that have made a significant contribution to the broad patterns of our history; or

(b) that are associated with the lives of persons significant in our past; or

(c) that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(d) that have yielded, or may be likely to yield, information important in pre-history or history.

Criteria considerations. Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, *properties primarily commemorative in nature*, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria of if they fall within the following categories:

(a) A religious property deriving primary significance from architectural or artistic distinction or historical importance; or

(b) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

(c) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life.

(d) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or

(e) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or

(f) *A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance;* or

(g) A property achieving significance within the past 50 years if it is of exceptional importance.

This exception is described further in NPS “How To” #2, entitled “How to Evaluate and Nominate Potential National Register Properties That Have Achieved Significance Within the Last 50 Years” which is available from the National Register of Historic Places Division, National Park Service, United States Department of the Interior, Washington, DC 20240.

Question 5. (S. 1092, Veterans Memorials Database): Since the National Park Service has the existing infrastructure to hold this catalogued information, would you be willing to accept additional information gathered by other groups and entities?

Answer. We do not have the infrastructure to hold this catalogued information. We would not be able to accept additional information for our existing database gathered by other groups and entities for several reasons. First, our inventory is a management tool for park managers and only covers structures located within the boundaries of units of the National Park System. Information about other memorials or structures would not be appropriate for this inventory. Second, information included in our inventory is gathered by trained professionals and meets certain standards. We would not have the staff with the level of proposed funding to verify that information provided by other groups or entities meets our standards. And third, the structure of our inventory is controlled to meet management needs at the parks and is not designed to meet other purposes.

QUESTION FROM SENATOR AKAKA

The Department previously responded to Senator Akaka's question in a letter dated June 10, 2004. A copy of that response is included in this letter.

Question. In your answer to my question about the use of the land to be transferred to the South Florida Water Management District, you indicated that the District could use the land for both restoration of Everglades National Park and for flood protection without causing harm to the Park. What steps will the Department take to monitor whether or not harm is caused to the Park? What will the Department do if harm is found to occur within the Park due to the use of this exchanged land?

Answer. The Department of the Interior, including the National Park Service (Everglades National Park) and Fish and Wildlife Service, is a partner with the Army Corps of Engineers (Corps) and the South Florida Water Management in implementing the C-111 Project. As indicated in the testimony, the primary purpose of the land exchange is to allow for the construction of a series of detention basins that will, in the end, restore park habitat that was damaged by past operation of the Central and Southern Florida Project. The Department's primary role in this project is to provide technical analysis and input to the Corps on the design and operation of the detention basins. In that role, the Department and its agencies will assist in the development and analysis of project alternatives to ensure that the project achieves its intended environmental benefits without causing negative adverse impact to park resources. The Department believes that relevant federal and state environmental laws protecting park resources and water quality provide protection to ensure that this result will be achieved. Further, systematic monitoring of the project's operation on park resources will be a key element in ensuring that park resources are not adversely affected. If the monitoring of the project operations reveals that adverse impacts are occurring to park resources as a result of the project operations, then the National Park Service and the Department of the Interior will work with the Corps, and the South Florida Water Management District, to modify the operation of the project so that adverse impacts to park resources are avoided and that the overall restoration objectives of the project are realized.

NPS PRESIDENTIAL SITES—PARK BASE FUNDING

[FY 2000-FY 2005 Request]

Park	(\$000)					
	2000	2001	2002	2003	2004	2005 request
Abraham Lincoln Birth- place NHS	509	520	652	654	727	977
Adams NHP	2,063	2,275	2,507	2,507	2,494	2,494
Andrew Johnson NHS	488	499	509	712	708	708
Eisenhower NHS	1,107	1,036	1,050	1,051	1,045	1,045
Ford's Theatre NHS	695	740	980	985	981	981
FDR Memorial	1,324	1,360	1,371	1,377	1,371	1,371
General Grant NMem	600	602	604	604	601	601
George Washington Birth- place NM	1,064	1,096	1,121	1,123	1,112	1,112
Harry S Truman NHS	1,025	1,050	1,070	1,071	1,066	1,152
Herbert Hoover NHS	870	890	1,078	1,075	1,069	1,069
Home of FDR NHS	1,665	2,248	2,281	2,279	2,266	2,266
James A. Garfield NHS	140	143	144	145	144	144
Thomas Jefferson Memorial	1,680	2,009	2,021	2,029	2,017	2,017
Jimmy Carter NHS	667	876	985	982	976	976
JF Kennedy NHS	303	309	309	306	302	302
Lincoln Boyhood NMem	762	781	795	796	792	899
Lincoln Home NHS	1,937	2,000	2,039	2,044	2,332	2,332
Lincoln Memorial	1,711	2,077	2,089	2,097	2,086	2,086
Lyndon B. Johnson NHP	2,834	2,900	2,961	3,153	3,139	3,277
Martin Van Buren NHS	780	800	814	1,063	1,057	1,057
Mount Rushmore NMem	2,402	2,473	2,529	2,903	3,315	3,647
Ronald Reagan Boyhood Home NHS					82	82
Roosevelt-Campobello IP ¹ ..	[670]	[728]	[766]	[797]	[837]	896
Sagamore Hill NHS	946	970	991	986	979	1,413

NPS PRESIDENTIAL SITES—PARK BASE FUNDING—Continued

[FY 2000-FY 2005 Request]

Park	(\$000)					
	2000	2001	2002	2003	2004	2005 request
Theodore Roosevelt Bthplc NHS	219	222	223	223	223	223
Theodore Roosevelt Inaugural NHS	213	213	213	212	210	210
Theodore Roosevelt NP	1,703	1,900	2,187	2,192	2,184	2,184
Ulysses S. Grant NHS	526	547	561	785	779	779
Washington Monument	2,298	2,362	2,382	2,392	2,381	2,381
William Howard Taft NHS	508	519	529	529	527	586
Total, NPS Presidential Sites	30,949	33,417	34,995	36,275	36,965	39,267
Total, with bracketed numbers	31,619	34,145	35,761	37,072	37,802	39,267

¹ Prior to FY 2005 Request, Roosevelt-Campobello International Park was funded under Statutory and Contractual Aid budget activity under the National Recreation and Preservation appropriation.

NPS PRESIDENTIAL SITES—LINE-ITEM CONSTRUCTION FUNDING

[FY 2000-FY 2005 Request]

Park	(\$000)						Total
	2000	2001	2002	2003	2004	2005 request	
Adams NHP				537			537
Ford's Theatre NHS			1,562				1,562
General Grant NMem				174	1,711		1,885
Home of FDR NHS	1,295		5,630				6,925
Thomas Jefferson Mem		934	2,600		4,799		8,333
John Adams Presidential Memorial ¹			1,000				1,000
Lincoln Home NHS	555						555
Lincoln Memorial Mount Rushmore NMem	4,568						4,568
Ulysses S. Grant NHS			5,200	1,981			7,181
Washington Monument					14,913		14,913
Total, NPS Presidential Sites	6,418	934	15,992	13,993	21,423	0	58,760

¹ John Adams Presidential Memorial will become an NPS site when completed.

APPENDIX II

Additional Material Submitted for the Record

STATEMENT OF THE ENVIRONMENTAL & LAND USE LAW CENTER, THE EVERGLADES FOUNDATION, THE EVERGLADES TRUST, THE NATIONAL PARKS CONSERVATION ASSOCIATION, THE NATIONAL WILDLIFE FEDERATION, THE NATURAL RESOURCES DEFENSE COUNCIL, THE SIERRA CLUB, AND THE WORLD WILDLIFE FUND

On behalf of the organizations named above, we want to thank the Subcommittee for the opportunity to submit testimony regarding legislation authorizing the exchange of Everglades National Park land for purposes of implementing the long-delayed General Reevaluation Report of 1994 for the Canal 111 (C-111 GRR). We particularly want to thank Senator Graham for his continued strong support of Everglades restoration.

Our organizations are concerned that the current language in this legislation will unintentionally conflict with the goal of completing this critical restoration project, as well as have consequences detrimental to the Park. We also want to provide you with a suggested language addition to the legislation that would resolve our concerns.

Our groups' central concern with the current bill language is that it does not state that the Park land in question will be used specifically to implement the C-111 GRR modifications. Rather, the bill provides for the Park land to be used for the "C-111 Project" as a whole, which has multiple purposes wholly independent of Park protection and restoration. Indeed, the C-111 GRR modifications were only developed in the first place in order to correct ecological problems caused by the larger C-111 project. When Congress authorized the C-111 GRR modifications in 1996, the Park land in question was at the heart of the project's design to restore water flows into Taylor Slough, one of the Park's two major water "arteries."

We propose that clarifying language be added to the end of the legislation's subsection (4) "Use of Federal Land". Specifically, we propose deletion of the final period and addition of the following phrase:

and for the specific purpose of implementing the Final Integrated General Reevaluation Report and Environmental Impact Statement, Canal 111 (C-111), May 1994, as authorized by the Water Resources Development Act of 1996.

We also recommend to the Subcommittee that explanatory report language be provided, describing in further detail that (1) the authorized purposes of the C-111 GRR modifications are, as the 1994 GRR states, "to restore the ecosystem in Taylor Slough and the eastern panhandle of ENP that were affected by construction of the flood control project in the C-111 Basin . . . [while] preserving the current level of flood protection for the agricultural activities in the C-111 basin"; (2) the Park land to be exchanged was purchased by the federal government pursuant to the 1989 Everglades National Park Protection and Expansion Act specifically for the purpose of restoring water flow to the Park, as well as for the land's particular habitat value; and (3) it is the intent of Congress that all activities on the Park land to be exchanged must be consistent with the C-111 GRR and its 1996 authorization, as well as protection and restoration of the Park.

Our suggested bill language constitutes a technical change to the current version, and is intended to make the bill consistent with the prior Congressional authorizations and previous agency agreements. This change is a critical one. Although we realize this is not the intent, the language in the current bill would cause a significant modification in the C-111 GRR, as well as a possible pollution threat to the Park. The C-111 GRR is the single most important restoration project for the Taylor Slough, Eastern Panhandle, and northeastern Florida Bay. Absolute clarity from Congress concerning the purpose of the key land exchange is essential to ensure that the C-111 modifications finally get off the ground and avoid, further delays and disputes.

We thank the Subcommittee again for the opportunity to submit testimony on this important legislation.

STATEMENT OF THE NATURE CONSERVANCY ON S. 2319

The Nature Conservancy (TNC) respectfully thanks the Chairman and Members of the Committee for the opportunity to express our full support for S. 2319, the "Tapoco Project Licensing Act of 2004." This bill was introduced to the Senate by Senator Lamar Alexander of Tennessee on April 20th, 2004 and enjoys broad-based support from its industry, nongovernmental organization, local, state, and federal government, and stakeholder advocates.

The Nature Conservancy is dedicated to preserving the plants, animals, and natural communities that represent the diversity of life on Earth by protecting the land and water they need to survive. The Conservancy has over 1 million individual members and nearly 2,000 corporate associates. We currently have programs in all 50 states and in 30 nations. To date, TNC has protected over 12 million acres of biologically important lands in the United States and abroad and has helped local partner organizations preserve millions of acres in other countries. The Conservancy itself owns a network of over 1,400 private nature preserves in the U.S., the largest private system of nature sanctuaries in the world. Our conservation work is grounded on sound science, strong partnerships with public and private entities, tangible results in local places, and compromise.

The lands owned by Alcoa Power Generating, Incorporated (APGI) that are addressed in S. 2319 contain the biological diversity and conservation potential that exemplify conservation partnership projects. These APGI lands lie between the Great Smoky Mountains National Park and two designated Wilderness Areas (Citico and Joyce Kilmer). Together, these lands comprise one of the most vast and undisturbed "wilderness" regions in the Eastern United States, and the only such area remaining in the Southern Appalachians. The APGI property, or "Tapoco Lands," is a critical link in this chain.

The APGI property includes the entire Tallassee Creek watershed, one of the few remaining undisturbed, high-elevation, low-gradient streams in the region, rivaled only by two systems within the Great Smoky Mountains National Park. Studies by TNC, the U.S. Fish and Wildlife Service, and others have revealed at least 21 species that are rare, threatened or endangered on APGI property, including amphibians, birds, fish, mammals, reptiles and plants. Some of the more notable species include the bald eagle, peregrine falcon, bristle fern, chalk maple, smoky dace, and hellbender salamander. The rare Junaluska salamander, known only from this region of the Southern Appalachians, is also documented on the APGI property.

For the past seven years, APGI has worked tirelessly with local, state, and federal agencies, citizen groups, interest groups, tribes, and the conservation community to finalize a Settlement Agreement prior to the Federal Energy Regulatory Commission's (FERC) relicensing of four APGI dams (two of which are in Tennessee) that affect terrestrial and aquatic resources within the above-mentioned "wilderness" region. The Settlement Agreement outlines protection, mitigation and enhancement measures to offset the continuing social and environmental impacts of APGI hydropower operations on the Little Tennessee River. TNC will be a proud signatory of the Settlement Agreement and joins its partners in officially recognizing that the APGI lands within the areas affected by the Calderwood and Chilhowee impoundments of the Little Tennessee River serve as a critical ecological link worthy of conservation and protection. TNC's further contribution to the project will include assisting in the eventual transfer of 10,000 acres of APGI lands to the Cherokee National Forest and Great Smoky Mountains National Park over the short and long term. By assuring that these areas remain protected and undeveloped, this unique ecological landscape may be protected not just for the rare species and ecosystems within, but also for the human communities that depend upon this land for economic progress and outdoor recreation.

Before relicensing and ensuing land protection may occur, however, federal legislation must cure a legal defect in APGI's original license that allowed for the inundation of lands within the Great Smoky Mountains National Park. FERC may not issue APGI's license to continue operating the Tapoco hydropower project until this problem is remedied. Senator Alexander is to be commended for taking a leadership role in resolving this legal problem and expediting the cooperating parties' innovative Settlement Agreement. By joining Senator Alexander in supporting S. 2319, the Senate can contribute to this laudable effort to marry power production, local economics, terrestrial and aquatic ecosystem health, and the recreational potential of APGI's land holdings.

Thank you for the opportunity to lend our support to this important legislation. For more information, please contact:

- Tom Cassidy, Director of Federal Programs, The Nature Conservancy, (703) 841-4527, tcassidy@tnc.org
- Gabby Call, Associate State Director, The Nature Conservancy of Tennessee, (615) 383-9909, gcall@tnc.org

STATEMENT OF AMERICAN RIVERS ON S. 2319

American Rivers is pleased to offer its full support for S. 2319, the “Tapoco Project Licensing Act of 2004”, a bill introduced in the Senate on April 20th by Senator Lamar Alexander of Tennessee. We commend the Senator for his leadership and his longstanding commitment to the people and environment of Eastern Tennessee. As a leader of the national river movement, American Rivers is devoted to the protection and restoration of our nation’s rivers and communities that depend on them. We believe that this legislation and the associated settlement agreement meet those goals while maintaining the ability to generate low cost electricity.

The simple elements of this legislation belie its true significance. After almost seven years of analysis and negotiation, Alcoa reached agreement with tribes, state and federal agencies, homeowners, recreation interests, and environmental advocates on the licensing of four dams owned by Alcoa Power Generating, Inc. (Alcoa) affecting critical aquatic and land resources in the heart of the Smoky Mountains. The agreement improves flows along two significant segments of river with only a small impact on hydropower generation, while at the same time enhancing recreational opportunities, improving water quality, and protecting native species. The centerpiece of the agreement protects more than 10,000 acres of critical watersheds through various mechanisms, including incorporation of lands into the Great Smoky Mountains National Park and the Cherokee National Forest.

Included in the Settlement Agreement is a requirement to support federal legislation that cures a legal defect in the original project license that, if not remedied, will prevent the Federal Energy Regulatory Commission (FERC) from relicensing the Tapoco Project. For almost 80 years, the project has occupied lands within the National Park. Because Congress wisely prohibited FERC and its predecessor from issuing hydropower licenses in National Parks, and the organic statute of the park itself restated that prohibition, FERC may not issue Alcoa another license until this problem is remedied. 16 U.S.C. § 791 *et seq.* and 16 U.S.C. § 403 *et seq.* Senator Alexander’s leadership in introducing S. 2319 is paving the way to resolve this legal problem and put in motion this landmark agreement.

American Rivers is proud to have participated over the past five years in the relicensing process and negotiations for the Tapoco Project. We stand committed to implementing its purpose and promise. As a signatory to more than 30 hydropower licensing settlements, American Rivers recognizes the importance of hydropower as part of our nation’s energy mix while ensuring that its impacts on our nation’s river ecosystems and the communities that depend on them are adequately prevented or mitigated. By supporting S. 2319, the Senate can help us strike a fair and appropriate balance between power production and environmental protection that meets the needs of the people of Eastern Tennessee and Western North Carolina.